

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CASE NO. 79

Decided June 14th, 1916.

**J. L. Bennett, Esq., for the City of
Colorado Springs.
Messrs. Chinn & Strickler, for the
Defendant Company.**

STATEMENT.

On the second day of June, 1916, a written petition was filed with the Commission by the City of Colorado Springs, through its attorney, J. L. Bennett, Esq., directed against the Colorado Springs and Interurban Railway Company, by stipulation with Messrs. Chinn & Strickler, attorneys for the Defendant Railway Company, and requesting that the Commission issue an order directing The said Colorado Springs and Interurban Railway Company to furnish to the St. Francis Hospital such street railway service as may be deemed adequate by the Commission, setting forth the routes to be adopted for such purpose, and further directing the Defendant Railway Company to apply to the City Commissioners of Colorado Springs for such revocable permits as may be found by the Commission necessary to be obtained by the Defendant Railway Company prior to the beginning of construction work on the extension so ordered.

The petition set forth that the action was brought before the Commission as a result of certain informal complaints having been filed with this Commission by the St. Francis Hospital, a charitable institution in the City of Colorado Springs, alleging

that the Defendant Railway Company was failing to furnish adequate service to the said St. Francis Hospital, and following conferences between The Public Utilities Commission of the State of Colorado, the City Commissioners of Colorado Springs, and representatives of the Defendant Railway Company, at which conferences it was agreed and stipulated that said petition should be filed and said order or orders issue in conformity therewith, together with such further order or orders as this Commission might deem just and proper.

On the eighth day of June, 1916, the Commission gave notice to the citizens of Colorado Springs, through daily newspapers published in said city, that on the tenth day of June, 1916, at 10:00 o'clock a.m., the Commission would convene a hearing in this cause at the council chamber of the City Commissioners of Colorado Springs in the City Hall at Colorado Springs, Colorado, for the purpose of receiving the report of D. S. Hooker, Civil Engineer for the Commission, as to the necessity of the proposed service and as to the routes to be adopted by the Colorado Springs and Interurban Railway Company in the event that the Commission should order inaugurated the service petitioned for, and to the end that a public hearing be held by the Commission, permitting citizens of Colorado Springs to testify to all matters relevant to the issues.

On the tenth day of June, 1916, at the council chamber of the City Commissioners of Colorado Springs, at Colorado Springs, Colorado, the Commission convened the above cause and received the report of its engineer, recommending that the proposed service be furnished to the St. Francis Hospital, and presenting to the Commission a plan calling for certain extensions of railway lines by The Colorado Springs and Interurban Railway Company, and the temporary discontinuance of certain lines of railway service.

The Commission now being fully advised in the premises:

O R D E R.

IT IS ORDERED: That the Defendant, The Colorado Springs and Interurban Railway Company, remove its tracks from that portion of Kiowa Street, in the City of Colorado Springs, beginning with the intersection of Kiowa Street with El Paso Street and running thence east to the intersection of said Kiowa Street with Institute Street, and to discontinue the operation of a car line thereon, and that the said Defendant is further ordered and directed to remove its tracks on that portion of Platte Avenue, in the City of Colorado Springs, beginning with the intersection of Platte Avenue with Wahsatch Avenue, and running thence east on Platte Avenue to the intersection of Platte Avenue with El Paso Street, and discontinue the operation of a car line thereon.

IT IS FURTHER ORDERED, That the Defendant, The Colorado Springs and Interurban Railway Company, immediately apply to the City of Colorado Springs, through its Board of Commissioners, for a permit, revocable or otherwise, permitting the said Colorado Springs and Interurban Railway Company to extend, construct and operate a line of railway, at all times subject to the supervision of the Public Utilities Commission of the State of Colorado, on Pikes Peak Avenue in the City of Colorado Springs, beginning at the point thereon where its line of railway now turns into the station of the Atchison, Topeka & Santa Fe Railway and running thence easterly on Pikes Peak Avenue to the intersection of Pikes Peak Avenue with Institute Street, and thence northerly on Institute Street to the intersection of Institute Street with Kiowa Street, and to extend its line of railway on El Paso Street, commencing at the intersection of El Paso Street with Kiowa Street and running thence northerly on El Paso Street to the intersection of El Paso Street with Platte Avenue.

IT IS FURTHER ORDERED, That, upon the issuance of said per-

mit or permits by the Commissioners of the City of Colorado Springs, the said Colorado Springs and Interurban Railway Company operate and maintain these extensions as a part of its system of street railways, under the supervision of the Public Utilities Commission of the State of Colorado.

IT IS FURTHER ORDERED, That the Colorado Springs and Interurban Railway Company, at its expense, extend the conduit on Institute Street and make the fill therefor, under the supervision of the Commissioner of Public Works and Property of the City of Colorado Springs and the Engineer for the Public Utilities Commission of the State of Colorado.

A. L. Kendall
M. H. Glumick
Geo. T. Bradley
Commissioners

Dated this 14th day of June, 1916,
at Denver, Colorado.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of an Investigation and Hearing,
on motion of the Commission, into the feasibility
and necessity of the installation by The Denver
& Rio Grande Railroad Company and The Atchison,
Topeka & Santa Fe Railway Company of electric
gongs, audible and visual signals, or other
suitable safety devices, at their respective
railroad crossings located on their lines of
railroad between the City of Denver and the City
of Pueblo, within the State of Colorado.

CASE NO. 76

Submitted June 9, 1916

Decided June 15, 1916

APPEARANCES:

Henry T. Rogers, Esq.,
J.H.McMahon, Esq.,
D.E.Helvern, Esq.,
W.H.Rife, Esq.,
For The Atchison, Topeka & Santa Fe Railway Company;

A.E.Sweet, Esq.,
F.J.Easley, Esq.,
A.Ridgway, Esq.,
For The Denver & Rio Grande Railroad Company.

ORDER

On the 17th day of April, 1916, the Commission's
engineer in charge of railways, pursuant to a request made by the
Commission, made a thorough examination of all railway crossings
at grade on the railway lines of The Denver & Rio Grande Railroad
Company and The Atchison, Topeka & Santa Fe Railway Company between
Denver and Pueblo, within the State of Colorado.

On the 17th day of May, 1916, the Commission received a
communication from Henry T. Rogers, representing The Atchison,
Topeka & Santa Fe Railway Company, submitting prints showing
crossings on the Colorado division of the lines of The Atchison,
Topeka & Santa Fe Railway Company at which the said company intended

to install crossing bells.

The communication was accompanied by standard plans for installation. The proposed plans for installations of crossing bells pertained to certain railway crossings at grade between Denver and Pueblo, and the Company was notified that the Commission did not desire, at the time of the receipt of the communication, to approve the plans, as the Commission was awaiting the report of its railway engineer as to the adequacy of protection at the railway crossings at grade on The Atchison, Topeka & Santa Fe Railway between Denver and Pueblo.

On the 27th day of May, 1916, the Commission received a detailed report from its engineer in charge of railways, stating, in substance, that an examination had been made of each of the railway crossings of the above railway lines between Denver and Pueblo, and that an inspector for the Commission had obtained a traffic census upon the railway crossings of the above railway lines located between Denver and Pueblo, showing that about 300 automobiles cross the railroad tracks at these crossings each day and that about 100 other vehicles cross these railway crossings each day.

The report of the Commission's inspector was made during the month of May, 1916, prior to the period of heavy summer traffic throughout the State of Colorado.

The Commission's engineer, in his report, stated that the elimination of all of the grade crossings upon the above lines of railway between Denver and Pueblo is impracticable at present and will be impracticable for many years, but that the crossings are now dangerous and it becomes necessary, therefore, in his opinion, for the Commission to order the installation of such grade crossing protections as is feasible; that the driver of a vehicle may be given every chance to safeguard his passage over each of the railroad crossings and devote his entire attention to watching for signals and approaching trains without being diverted in attempting to choose a smooth road over the tracks; and that,

while the Commission's order in Case No. 56, when complied with, will naturally result in improved crossing conditions, it becomes necessary for the Commission to otherwise protect the traveling public at certain railway crossings at grade within the State of Colorado.

The report shows that the distance between Denver and Pueblo is 119 miles, and that there are twenty grade crossings located on the lines of railway of the above carriers between these cities, eleven of which are on The Atchison, Topeka & Santa Fe Railway and nine on The Denver & Rio Grande Railroad; and that, after a thorough investigation of these twenty grade crossings between Denver and Pueblo, the engineer arrived at the conclusion that none is less dangerous than any other between these points. The report was accompanied by photographs of each railway crossing and by certain communications from The Denver Motor Club, pertaining to the safety of these crossings. With the report was submitted the traffic report of E.S. Johnson, inspector for the Commission.

The engineer for the Commission recommended the installation of audible and visual signals at the railway crossings at grade between Denver and Pueblo, similar to those heretofore ordered by the Commission to be installed at certain other crossings on lines of railway within the State of Colorado.

On the 1st day of June, 1916, the Commission decided to hold a hearing on its own motion into the feasibility and necessity of the installation of safety devices by The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company at their railway crossings located on their respective lines of railway between the City of Denver and the City of Pueblo, within the State of Colorado, and ordered the said railway companies to appear through representatives at the Commission's hearing room in the State Capitol Building, in the City and County of Denver, on the 9th day of June, 1916, at the hour of 10 o'clock a.m., before the Commissioners en banc, to make such showing in the

above cause as to them might be thought necessary.

On the 9th day of June, 1916, this cause was convened by the Commission and the report of the Commission's engineer was read and the engineer was subjected to cross-examination. Representatives of the railway companies testified, and announced their desire to co-operate with the Commission upon the question of the adequate protection of the traveling public when crossing railway crossings of these railway companies located between Denver and Pueblo, within the State of Colorado.

While certain witnesses representing the carriers testified that crossing bells were adequate protection at railway crossings such as these, and that the installation of an audible and visual signal was, in many cases, unnecessary and thus became a burden of unnecessary expense upon the carriers, these statements were due largely to the fact that certain officials of the railroads had become somewhat discouraged by the attitude of the traveling public regarding the protection of railway crossings at grade. Some of the testimony was to the effect that travelers do not give the necessary attention to safe driving and were inclined to disregard any protection offered. While the Commission has no doubt as to the truth of the statements made at the hearing by the operating officials of these railroads, it regards these illustrations as exceptions, rather than the general rule.

The highway in question is known as a State Highway, due to the fact that the State of Colorado has contributed to its construction and is contributing to its maintenance. It is one of the important highway arteries of the state, all travel between Denver, Pueblo and Colorado Springs traversing it, and from this main artery are constructed many lateral highways with destinations in Southern and Western Colorado, and reaching the mountain resorts of the Southwestern part of the state.

When the Commission first began to enforce this important duty, assigned to it by the legislature, of protecting

the traveling public and the railways by the safeguarding of highway crossings at grade, a deplorable condition existed. While the railways operating within the state of Colorado had afforded some protection at highway crossings at grade within the city limits of municipalities within the state of Colorado by the means of flagmen, only a few crossing bells had been installed, and upon some of the railroads no attempt had been made to maintain the same. Consequently, a great damage resulted to the traveling public, in that its right to depend upon the warning of a crossing bell, when the same had been installed, was entirely swept away. Today all of the automatic signals of protection at grade crossings within the state of Colorado are operating and are being properly inspected and, while this is due partly to strenuous work of the Commission, much credit is due the railroads for their hearty co-operation.

The Commission has not become discouraged because of the apparent disregard of the travelers of the danger at railway crossings, but is of the opinion that, as the traveling public becomes aware of the work of this Commission and the large sums of money being expended by the railways for its protection, more attention will be given to careful driving and appreciation of crossing protection.

Inspectors of the Commission have reported that, at railway crossings where the Commission has ordered the installation of audible and visual signals, the desired result has been accomplished, and that a large majority of the drivers of vehicles stop their machines, at the time the signal begins to move, to await the passing of the approaching train.

Electric warning bells at crossings are adequate protection in many cases, but the Commission is of the opinion that where traffic is heavy the protection afforded by the audible and visual type of signal warrants the additional expense.

The advantage of the audible and visual signal over the ordinary crossing alarm bell is apparent. The latter is an

electric bell which sounds a warning upon the approach of a train. The audible and visual signal, commonly known as the "wig-wag", is ordinarily an electric-motor-driven device sounding an alarm upon the approach of a train and swinging a red disk of sufficient size, upon which is printed the word "danger" and in which is enclosed a red electric light, thus affording additional protection at night by calling the attention of travelers to impending danger, even though the traveler is unable to hear the warning of the bell.

The Commission has made a careful study of the cost of the installation of warning devices, as well as the cost of maintenance, and is of the opinion that each railway crossing at grade located upon the railway lines of The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Santa Fe Railway Company between Denver and Pueblo shall be protected by an audible and visual signal, the plans for which shall first be submitted to the Commission for its approval.

IT IS THEREFORE ORDERED, (a) That The Denver & Rio Grande Railroad Company install and maintain at its expense an audible and visual signal at each of its railway crossings at grade with "State Primary Highways" Nos. 3, 4 and 8, on its line of railway between Denver and Pueblo, within the State of Colorado.

(b) IT IS FURTHER ORDERED, That these audible and visual signals shall be installed within a period of sixty days, and that the plans for the installation of same shall first be approved by the Commission.

IT IS ORDERED, (a) That The Atchison, Topeka & Santa Fe Railway Company install and maintain at its expense an audible and visual signal at each of its railway crossings at grade with "State Primary Highways" Nos. 3, 4 and 8, on its line of railway between Denver and Pueblo, within the State of Colorado.

(b) IT IS FURTHER ORDERED, That these audible and visual signals shall be installed within a period of sixty days, and that the plans for the installation of same shall first be approved by the Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
M. H. G. Lusk
Geo. T. Bradley

Commissioners

Dated at Denver, Colorado,
this 15th day of June, 1916

ORIGINAL

BEFORE
THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF COLORADO.

In re: Rules Regulating Water, Gas and
Electric Service for privately owned and
municipally owned water, gas and electric
utilities.

June 15, 1916
CASE NO. 84

To-
Gas, Water and Electric Utilities,
Privately and Municipally owned:---

In order that water, gas and electric utilities,
both privately and municipally owned, may have an opportunity to
consider and be heard on the reasonableness of rules regulating
gas, electric and water service of privately owned and municipally
owned public utilities, to be prescribed by this Commission, hear-
ings will be held in the Hearing Room of the Commission in the
State Capitol Building in the City and County of Denver, Colorado,
on the 7th day of July, 1916, at the hour of 10:00 o'clock a.m. .

It is the desire of the Commission to have a repre-
sentative from each of the gas, electric and water utilities, both
privately and municipally owned, present at these hearings, and
criticisms and suggestions are invited from the representatives of
the utilities.

Copies of the proposed rules will be placed in your
hands by the Commission about one week prior to the date of the
hearing.

The proposed rules, to a large extent, apply uniform-
ly to gas, water and electric utilities. It will therefore be neces-
sary that the representatives of all utilities be present promptly
at 10:00 o'clock a.m., on July 7th, 1916.

THE PUBLIC UTILITIES COMMISSION
of THE STATE OF COLORADO.

Dated at Denver, Colorado,
this 15th day of June, 1916.

S. S. Standen
M. H. Linn
Commissioners.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

AMERICAN SMELTING AND REFINING COMPANY,

Complainant,

vs.

UNION PACIFIC RAILROAD COMPANY,

Defendant.

June 16, 1916

Case No. 82.

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 12th day of June, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 15th day of June, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate

claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in a position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

Dated at Denver, Colorado,
this 16th day of June, 1916.

Commissioners.

ORIGINAL

At General Session of the
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,
held at its office in Denver,
Colorado, on the 16th day of
June, 1916.

INVESTIGATION AND SUSPENSION DOCKET NO. 6

IT APPEARING, that there has been filed with the Public Utilities Commission of the State of Colorado, tariffs containing schedules stating advanced rates on lumber, designated as follows:

- Item No. 940-A of Supplement No. 9, Denver & Salt Lake R.R. Colorado P.U.C. No. 25, to become effective June 18th, 1916;
- Items 50, 55, 60, 65 and 70 of Colorado P.U.C. No. 39, to become effective June 21st, 1916;

IT IS ORDERED, that the Commission enter upon an investigation and hearing to be held at the office of the Commission in Denver, Colorado, at 10 o'clock a.m., Thursday, July 6th, 1916, concerning the propriety of the increases and the lawfulness of the schedules contained in the said tariffs.

IT FURTHER APPEARING, that the said tariffs make certain changes and increases in the rates and charges for the intrastate transportation of lumber, and certain complaints protesting against such advances having been filed with the Commission, and the rights and interests of the public appearing to be injuriously affected thereby, and it being the opinion of the Commission that the effective dates of the schedules above specified, contained in said tariffs, should be postponed pending said hearing and decision thereon,

IT IS FURTHER ORDERED, that the operation of the schedules above specified, contained in said tariffs, be suspended, and that the use of the rates, charges, regulations and practices therein be deferred upon intrastate traffic until the 16th day of September, 1916, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, that the Secretary of this Commission be, and is hereby directed to serve upon the carriers parties to the above named tariffs a certified copy of this order, accompanied by a notice directing said carriers to appear before this Commission at the time and place above specified.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

G. T. Bradley

W. H. G. Lumsden
Commissioners

Dated at Denver, Colorado,
this 16th day of June, 1916

ORIGINAL

At a General Session of the
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,
held at its office in Denver,
Colorado, on the 17th day of
June, 1916.

INVESTIGATION AND SUSPENSION DOCKET NO. 6
AND FIRST SUPPLEMENTAL ORDER.

IT APPEARING, that there has been filed with the
Public Utilities Commission of the State of Colorado, tariffs
containing schedules stating advanced rates on mine props and
mine ties, designated as follows:

Item No. 960-A of Supplement No. 9, Denver
& Salt Lake R. R. Colorado P. U. C. No.
25 to become effective June 18, 1916.

IT IS ORDERED, that the Commission enter upon an in-
vestigation and hearing to be held at the office of the Commis-
sion in Denver, Colorado, at 10 o'clock a. m., Thursday, July
6th, 1916, concerning the propriety of the increases and the
lawfulness of the schedules contained in the said tariffs.

IT FURTHER APPEARING, that the said tariffs make cer-
tain changes and increases in the rates and charges for the
intra-state transportation of lumber, and certain complaints
protesting against such advances having been filed with the
Commission, and the rights and interests of the public appear-
ing to be injuriously affected thereby, and it being the opinion
of the Commission that the effective dates of the schedules
above specified, contained in said tariffs, should be postponed
pending said hearing and decision thereon,

IT IS FURTHER ORDERED, that the operation of the sched-
ules above specified, contained in said tariffs, be suspended,
and that the use of the rates, charges, regulations and practices
therein be deferred upon intrastate traffic until the 16th day
of September, 1916, unless otherwise ordered by the Commission.

IT IS FURTHER ORDERED, that the Secretary of this
Commission be, and is hereby directed to serve upon the carriers
parties to the above named tariffs a certified copy of this
order, accompanied by a notice directing said carriers to appear
before this Commission at the time and place above specified.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

M. H. Hunt

Geo. T. Bradley
Commissioners.

Dated at Denver, Colorado,
this 17th day of June, 1916.

BEFORE
THE PUBLIC UTILITIES COMMISSION
of the
STATE OF COLORADO

MAKE NO
COPY

J.K.MULLEN & COMPANY,

Complainant,

vs.

THE DENVER & RIO GRANDE RAILROAD
COMPANY,

Defendant.

INFORMAL COMPLAINT NO. 251

CASE NO. 83

Submitted September 3, 1915

Decided June 17th, 1916

S T A T E M E N T

On the 3d day of September, 1915, the Complainant, by J.K.Mullen as General Manager, filed with the Commission a written petition alleging that, in the year 1875, J.K.Mullen leased the Star Mills, located in North Denver, Colorado, which at that time were operated by water power; and that, in the summer of 1878, the said J.K.Mullen bought the Excelsior Flour Mill, located at 8th and Lawrence streets, and immediately thereafter enlarged the capacity of the said mill and purchased a home on the corner of 9th and Lawrence streets, two blocks distant from the mill. It appears from the petition that it then became necessary for the said J.K.Mullen, in order to supply his customers, to double the capacity of the Excelsior Flour Mill or, in lieu thereof, to build a new mill, and that the said J.K.Mullen decided on the latter plan and purchased a location on the corner of Wewatta and 15th streets; and that, subsequent to the purchase of said location, the said J.K.Mullen, as General Manager of J.K.Mullen & Company, was approached by D.C.Dodge, then Vice

President of The Denver & Rio Grande Railroad Company, who requested him to locate his company's new mill on the tracks of The Denver & Rio Grande Railroad Company. Mr. Mullen informed Mr. Dodge that it had become necessary to construct an elevator in which grain could be handled in bulk and that the most desirable location was on a line of railroad traversing the grain fields of Northern Colorado and over the lines of which the said J.K.Mullen could receive grain from Utah and Idaho, as well as from Kansas and Nebraska, without being compelled to pay switching charges. It appears that Mr. Dodge stated that his company wished to have Mr. Mullen build his mill on its line of railway, so it would not be necessary for the said railroad company to switch empty cars over and across Cherry Creek, then pay another railroad company for taking the empty cars from the transfer track and switching them over to the line that brought the grain and products into Denver and then returning the loaded cars to the transfer tracks of The Denver & Rio Grande Railroad Company.

Mr. Dodge agreed that his company would make only a nominal charge for all loaded cars of grain delivered at the proposed mill of J.K.Mullen & Company, and asserted that the cost would be so small as to equalize conditions and give to Mr. Mullen as good a location as though he built on the East side of Cherry Creek.

On the 14th day of February, 1883, J.K.Mullen & Company entered into a certain written agreement with The Denver & Rio Grande Railroad Company, as follows:

"THIS AGREEMENT AND CONTRACT made by and between The Denver & Rio Grande Ry.Co. and J.K.Mullen & Co., of Denver, Colorado;
WITNESSETH: That whereas the said J.K. Mullen & Co. propose to build on Block 73,

West Denver, a Flouring Mill & Elevator at a cost of not less than Seventy Thousand Dollars and in order to successfully operate said Mill and Elevator it will be necessary to have The Denver & Rio Grande Railway Company switch promptly to the said proposed Mill and Elevator all cars of Grain, Merchandise and Coal received by the said J.K.Mullen & Co. or their successors in business, on same location, regardless of which Railway hauls the same to Denver;

NOW THEREFORE, In consideration of the amount of money involved by the said J.K.Mullen & Co. and as an inducement for them to locate their business on the line of The Denver & Rio Grande Railway, we, The Denver & Rio Grande Railroad Co., through their General Manager, D.C.Dodge, do promise and agree and by this contract has contracted, promised and agreed to do the necessary switching for the said J.K.Mullen & Co., or their successors in business, for so long a time as they or their successors shall continue to transact a Grain and Feed business on said Block 73, in West Denver, at the following named prices and on the following terms, to-wit:

On all cars from East of Meridian of Kansas State Line, and Utah and California,-- in other words, all cars on which the Union Pacific or B.& M.R.R.agree to refund the amount charged by the D.& R.G.Ry.--- switching charge to be Two Dollars per car.

On all cars from Local points in Colorado, or from Utah and California on which the Union Pacific or B.& M.R.R.refund no part of amount charged by D.& R.G.R.R., switching charge to be Seventy-Five Cents per car.

In witness whereof we hereunto set out hand and seal this fourteenth day of February, Eighteen Hundred and Eighty-three.

C.& R.G.Ry.Co.,
By D.C.Dodge,
V.P.& G.M.

J.K.Mullen & Co."

It is then alleged by Mr. Mullen, as General Manager of J.K.Mullen & Company, that the construction of the Hungarian Mill & Elevator was begun in the year 1883, at a cost of more than \$70,000, and that the mill was operated for the first time in the fall of 1883. It appears that The Denver & Rio Grande Railroad Company complied with the terms of the contract until the year 1910. The Denver & Rio Grande Railroad Company then took the position that the switching rate set forth in the contract

was discriminatory and in violation of the Interstate Commerce Act. The petition then states that the Interstate Commerce Commission notified the railroad company and J.K.Mullen that the switching contract was in no way affected by the rulings of the Interstate Commerce Commission, for the reason that its application was to intrastate business. The Denver & Rio Grande Railroad Company then took the position that the contract was in violation of the Railroad Commission Law of the State of Colorado and is now in violation of the law pertaining to public utilities.

It is then alleged that the contract is legal and of binding force, and the complainant prays for an order of this Commission directing The Denver & Rio Grande Railroad Company to comply with the terms of the contract and to make reparation upon the alleged excessive charges heretofore collected from the complainant by the respondent.

The Denver & Rio Grande Railroad Company does not resist the petition, but desires the Commission to rule as to the legality of the contract.

It is admitted by the parties to this cause that the rates and charges for switching as set forth in the contract executed by the complainant and respondent are lower than those rates and charges which are set forth in the tariffs of The Denver & Rio Grande Railroad Company and on file with this Commission. It is admitted, also, that the respondent railroad company has collected from the complainant the tariff charges as filed with the Railroad Commission of Colorado and with this Commission since the year 1911. It therefore becomes apparent that, by complying with the terms of the contract, The Denver & Rio Grande Railroad Company would collect from the complainant a less rate than its tariff rates now on file with the Commission and, therefore, collect an illegal charge from and make a discriminatory rate to the

complainant. It is the contention of the complainant, however, that the contract is a legal contract binding the parties thereto.

The Commission heretofore has decided this very question in other cases, and has received an opinion from the Attorney General of the State of Colorado as to the legal status of this particular contract.

The contract in question must be deemed to have been entered into in contemplation of the reserve power of the State of Colorado to regulate the rates of public utility companies. The contract was binding on the parties when made, but, in contemplation of the law, was intended to bind them only so long as the legislature saw fit not to exercise such power. The laws of the State of Colorado permit no discrimination in rates, but call for uniformity, and, therefore, the State has asserted in no uncertain terms its intention to ~~assume~~ the power of state regulation. By the terms of the Railroad Commission Act and the Public Utilities Act, and the subsequent filing of tariffs containing the legal rates of public utilities within the State of Colorado, all contracts creating ~~discriminatory~~ ^{or special} such rates were abrogated automatically and the tariff rates become the only rates that the public utilities may collect.

Colo., Etc., Co. v. Railroad Commission, 54 Colo. 64, at 92;
Wolverton v. Mountain States T. & T. Co., 58 Colo. 58;
Louisville & Nashville Ry. Co. v. Mottley, 219 U.S. 467;
Southern Wire Co. v. St. Louis Bridge & T. Co., 28 Mo. App. 191;
Mo. Pac. Ry. Co. v. Kansas, 216 U.S. 262;
Benwood v. Public Service Commission (W. Va.), 83 S.E. 295;
State ex rel Webster v. Superior Court, 67 Wash. 37;
Milwaukee E. R. & L. Co. v. Railroad Commission (Wis.), 238 U.S. 174;
City of Manitowoc v. Manitowoc & Northern Traction Co., 145 Wis. 13;
Duluth Street R. R. Co. v. Railroad Commission (Wis.), 152 N.W. 887, at 890;
Seattle Electric Co. v. City of Seattle, 206 Fed. 955;
California-Oregon Power Co. v. City of Grants Pass, 203 Fed. 173;
Minneapolis, St. P. & S. S. Ry. Co. v. Menasha Woodenware Co., 159 Wis. 130.

It, therefore, is the opinion of the Commission that the contract in question, insofar as it affects intrastate business, is discriminatory and illegal.

The Commission has had submitted to it for decision Case No. 28, which deals with the reasonableness of rates for switching within the City of Denver. The question of the reasonableness of all switching rates within the City of Denver will be decided by the Commission in that case.

If the complainant has a cause of action for damages against the respondent, and as to this right the Commission expresses no opinion, the same should be presented to the courts and not to this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. L. Hendace
M. H. G. Hunt
Geo. N. Bradley
Commissioners

Dated at Denver, Colorado,
this 17th day of June, 1916

ORIGINAL

BEFORE

THE PUBLIC UTILITIES COMMISSION

of the

STATE OF COLORADO

MAKE
NO
COPY

In the Matter of an Investigation and Hearing,
on motion of the Commission, as to the reason-
ableness of the local class and commodity rates,
as charged by The Denver & Rio Grande Railroad
Company, between points in the San Luis Valley;
also between points in the San Luis Valley and
points on The Denver & Rio Grande Railroad in the
State of Colorado where the transportation is
wholly within the State of Colorado.

CASE NO.49

The Akers Lumber Company, a corporation, and
Phila D. Campbell, doing business under the firm
name and style of The J.S.Campbell Company, and
W.J.Clark,

Complainants,

vs.

The Denver & Rio Grande Railroad Company,

Defendant.

CASE NO.51

Submitted May 23, 1916

Decided June 20, 1916

APPEARANCES:

A.L.Moss,
W.R.Pike,
Robert Ginn,
Jas.Roper
Jas.D.Pilcher,
For Alamosa County;

E.H.Ellithorpe,
Delfino Salazar,
For Costilla County;

John I. Palmer,
John Britton,
For Saguache County;

W.H.Barlow,
Antonio J.N.Valdez,
For Conejos County;

L.A.Ruark,
H.N.Howard,
C.H.Akers,
C.S.Campbell,
Geo.Gates,
For Rio Grande County;

J.G.McMurry,
E.N.Clark,
Fred Wild, Jr.,
For The Denver & Rio Grande Railroad Company;

C.E.Neil,
For the Commission.

S T A T E M E N T

On February 1st, 1916, there was filed with the Commission a resolution adopted and passed by the Board of County Commissioners of Alamosa County, and on February 10th, 1916, a resolution adopted and passed by the Board of County Commissioners of Costilla County, making complaint against the rates on all commodities as charged by The Denver & Rio Grande Railroad Company from and to points in the San Luis Valley, as being discriminatory and rendering inestimable harm to the up-building of the San Luis Valley. Prior to the receipt of the above mentioned resolutions, the Commission had received many informal complaints as to the unreasonableness of the rates to and from the San Luis Valley.

On March 4th, 1916, pursuant to the informal complaints and resolutions filed, the Commission instituted an investigation on its own motion as to the reasonableness of the local class and commodity rates, as charged by The Denver & Rio Grande Railroad Company between points in the San Luis Valley; also between points in the San Luis Valley and points on The Denver & Rio Grande Railroad in the State of Colorado where the transportation was wholly within the State of Colorado; and ordered The Denver & Rio Grande Railroad Company to appear and make such showing in the cause as might be thought necessary by the said defendant. "San Luis Valley" was defined by the Commission in its order instituting the hearing as follows: "Creede, Antonito, La Veta and Villa Grove and all points intermediate therewith".

On March 10th, 1916, a complaint was filed with the Commission by The Akers Lumber Company, the J.S.Campbell Company and W.J.Clark attacking the rates on all classes of coal from the Walsenburg, Canon City and Trinidad Districts to Monte Vista. As the matters involved in this complaint were also involved in Case No. 49, the Commission consolidated Cases Nos. 49 and 51 and convened the causes for hearing before the Commissioners en banc in the hearing room of the Commission in Denver, Colorado, on May 23d, 1916, at which time witnesses for the Commission, the plaintiffs, the intervenors and the defendant appeared. Representatives of Alamosa, Costilla, Saguache, Conejos and Rio Grande Counties were allowed to intervene in Case No. 49. No representatives appeared from Mineral County, although rates to and from Mineral County were involved in Case No. 49.

Case No. 51, which related to the coal rates to Monte Vista, was heard and concluded on May 23d, 1916, and such portion of Case No. 49 as related to coal traffic was heard and concluded on May 24th, 1916, when an adjournment was taken as to the balance of the matters involved in Case No. 49 until July 10th, 1916, at Alamosa. At the adjournment it was agreed by both the intervenors and the defendant in Case No. 49 that, as all of the testimony in regard to coal rates had been submitted, the Commission could render a decision on such rates only without prejudice to the balance of the case. The present order, therefore, will pertain only to the rates on coal to points in the San Luis Valley, and the balance of the case will be held open and the decision thereon will be rendered in a supplemental order.

An exhibit was submitted by the Rate Expert of the Commission, setting forth the rates in effect on coal from the Walsenburg, Trinidad, Canon City, Crested Butte and Somerset Districts to the open stations in the San Luis Valley. This exhibit showed the average mileage from all of the mines in each district to the points of destination named, the rates on lump,

nut and slack coal, and the rate per ton per mile on lump coal. The rates as shown in the exhibit were the rates in effect at the time of the hearing, there having been certain reductions in the Walsenburg lump rates made by the defendant subsequent to the institution of the investigation and just prior to the hearing.

George H. Akers appeared on behalf of The Akers Lumber Company, and Mr. C. S. Campbell appeared for the J.S. Campbell Company, and stated that their companies handled domestic, steam and anthracite coal, practically all of which came from the Walsenburg, Canon City and Crested Butte Districts.

Mr. Fred Wild, Jr., the Freight Traffic Manager of The Denver & Rio Grande Railroad Company, appeared on behalf of the defendant, and testified as to the reasonableness of the rates on coal from the various districts to the San Luis Valley points. The principal testimony of this witness, however, was directed to the rates from the Walsenburg District, as it has been the general practice of the defendant carrier to use the Walsenburg District as a basis on which to predicate the differentials in rates from other districts. The adjustment of coal rates to points in the San Luis Valley, prior to the institution of this investigation, was without any seeming correlation. The rates on nut and slack coal did not bear any established relationship to the rates on lump coal, nor did the rates from the various districts bear established differentials in relation to the Walsenburg District rates.

Subsequent to the instituting of this investigation, the defendant, as explained above, changed certain of its rates on lump coal from the Walsenburg District. No change was made in the rates on nut or slack coal.

Certain mines which are classified in the Walsenburg District in connection with rates to Denver, Pueblo and points East of the Colorado Common Points Line, are classified in the Trinidad District when destined to points in the San Luis

Valley and certain other points on the line of The Denver & Rio Grande Railroad Company. There was no explanation made in reference to this fact and, as there has been no showing as to any hardship worked thereby, it will be unnecessary to make any readjustment of the grouping of the mines in the Walsenburg District on traffic destined to San Luis Valley points. Much stress was laid by the intervenors upon the comparison of the rates on coal from the Walsenburg District to Denver and the rates to points in the San Luis Valley. The rate on lump coal from Walsenburg to Denver is \$1.60, and the average mileage is 185 miles. The Commission is of the opinion that this rate is not a fair measure of rates to points West of Walsenburg in the San Luis Valley. The grade from Walsenburg to the San Luis Valley is double that of the grade from Walsenburg to Denver, the maximum in the former case being 3% adverse grade, and in the latter 1.42%. The density of traffic on the line to Denver is undoubtedly a great many times that on the line from Walsenburg to La Veta. All of these conditions tend to destroy the use of the Walsenburg-Denver rate as ^a standard for the measure of the reasonableness of the Walsenburg-San Luis Valley rates.

The traffic moving from Walsenburg to points in the San Luis Valley must cross over La Veta Pass, which is located 32 miles West of Walsenburg. Rates from the Walsenburg District in effect prior to April 18th, 1916, to the entire San Luis Valley points averaged as one, resulted in an average revenue per ton mile of 2.12¢ on lump coal, 1.92¢ on nut coal and 1.53¢ on slack coal. The average revenue per ton mile on lump coal to the same points, in effect on and after April 18th, 1916, is 2.04¢.

The Commission endeavored, in the investigation, to determine a reasonable differential on rates as between lump, nut and slack coal. The former rates on nut coal ~~are certain~~ ~~which~~ ~~exchanged~~ from 10¢ to 35¢ under the rates on lump. It was stated by the defendant that it had never established any

definite differential as between nut and lump, the difference depending, to a certain extent, on the rate on the lump^mcoal, and when the rate on lump coal was high enough a differential would be applied on the nut coal, and when the rate on lump coal was not high enough to justify a differential, the nut rate would be placed at the same as the lump rate. The rates in effect from the Walsenburg District, however, do not seem to have conformed to this theory. For instance, the lump rate from Walsenburg to Garland has been \$1.75 per ton and the nut rate \$1.50, making a differential of 25¢. From Walsenburg to Villa Grove, a point more than double the distance, the rate on lump coal has been \$2.60 per ton and the rate on nut coal \$2.50, a differential of only 10¢ per ton.

The Commission has endeavored to ascertain the general practice throughout the country^{at} making differentials on nut and slack coal rates from bituminous coal districts, and has examined many cases decided by various regulatory bodies. No reference to an established differential as between lump and nut or between lump and slack has been found in the Interstate Commerce Commission opinions in the Western part of the country. There have been many cases decided, however, without establishing a fixed differential, the facts in each case determining the proportion which the nut or slack rate should bear to the lump rate. In the case of Nebraska State Railway Commission vs. Union Pacific Railroad Company, 13 I.C.C. 349 (355), the Commission found that the reduction in rates ordered on lump coal from the Hanna and Rock Springs Districts in Wyoming to points in Western Nebraska, would result in having slack and pea coal rates higher than the lump rates, and stated that such relation of rates could not be allowed and that, where such a condition existed, it was expected that the defendant would make a reasonable differential between those rates and the lump coal rates. A \$3.00 rate was ordered in by the Interstate

Commerce Commission from the Rock Springs District to Sidney, Nebraska, and, in conformance with the Commission's request, a rate of \$2.75 was established on nut coal, a differential of 25¢, and a rate of \$2.50 established on slack coal, a differential of 50¢. In other cases the Interstate Commerce Commission has prescribed specific rates on lump, nut and slack coal. A general revision has recently been put into effect from the Colorado and Wyoming mines to points in Eastern Colorado, Kansas and Nebraska, on nut coal. This action was brought about by the Union Pacific Railroad Company reducing its rates on nut coal from the Hanna and Rock Springs Districts in Wyoming, in order to increase the output of the mines of nut coal, and it became necessary for the lines operating in the Walsenburg, ~~Triad~~ Oak Hills and other districts to establish the same rates, for competitive conditions. The differential observed generally throughout this revision was 50¢ under the lump rate.

A case which involved, among other things, the reasonableness of the spread between lump, nut and slack coal, was decided by the Kansas Supreme Court on May 18th, 1915, in the case of the Union Pacific Railroad Company vs. Public Utilities Commission of Kansas, et al, 95 Kan.604, 148 Pac.667, wherein it was stated that "in making rates for slack, nut and pea coal, the custom is to fix them at 80% of bituminous coal."

The rates in cents per ton of 2,000 pounds from the Walsenburg District to the points in the San Luis Valley in effect on March 4th, 1916 (the date of the commencement of this investigation) and as amended by the defendant carrier on April 18, 1916 and effective on less than statutory notice by permission of this Commission were as follows:

	Rates as of Mar. 4, 1916			Rates as of Apr.18,1916
	<u>Lump</u>	<u>Nut</u>	<u>Slack</u>	<u>Lump</u>
La Veta.....	75	65	65	75
Francisco.....	100	90	75	100
La Veta Pass....	125	100	85	125
Sierra.....	140	115	95	140
Russell.....	150	125	100	140
Garland.....	175	150	120	160

	Rates as of Mar. 4, 1916			Rates as of Apr. 18, 1916
	<u>Lump</u>	<u>Nut</u>	<u>Slack</u>	<u>Lump</u>
Blanca.....	185	160	125	160
Alamosa.....	200	165	125	190
Monte Vista.....	215	175	145	200
Del Norte.....	220	195	150	210
Wagon Wheel Gap..	235	205	150	215
Creede.....	240	215	150	225
Mosca.....	215	200	160	200
Hooper.....	220	210	170	210
Moffat.....	250	240	190	250
Villa Grove.....	260	250	200	260
Orient.....	280	270	215	280
La Jara.....	215	200	160	200
Romeo.....	220	210	170	210
Antonito.....	220	210	170	210

The Commission is convinced, after carefully considering all of the testimony and evidence introduced in this case, and the tariffs on file with the Commission, that the rates on lump, nut and slack coal from the Walsenburg District to points in the San Luis Valley are unreasonable, to the extent that they exceed the rates as prescribed by the Commission in its order in this case and which are set forth below. The basis found by the Commission to be reasonable fixes a differential of 25¢ on nut coal under the lump rates, and results in varying differentials on slack coal under the lump coal rates of from 10¢ to 70¢ per ton, according to distance. While a fixed differential might be desirable on the slack coal, it has been found impossible to arrive at any such differential, as to do so would increase a large number of rates which are admitted by the defendant carrier to be reasonable.

During the year from March 1st, 1915, to February 29, 1916, the Denver & Rio Grande Railroad Company shipped into Monte Vista, a point as well representative as any in the San Luis Valley, with a population of approximately 3000 people, 13,510 tons of coal from the Walsenburg District. 40% of this tonnage was lump coal, 42.6% nut coal and 17.4% slack coal. The number of ton-miles which this coal moved was 1,406,299, and the average haul per ton 104 miles, exactly the same distance as the average from all of the mines in the district. A comparison of the revenues received by the defendant on the coal traffic to Monte

Vista will be illustrative of almost any point in the valley.

	<u>Per cent</u>	<u>Tons</u>	<u>Rates as of Mar.4, 1916</u>		<u>Rates under Commission's order</u>	
			<u>Rate</u>	<u>Revenue</u>	<u>Rate</u>	<u>Revenue</u>
Lump....	40.%	5,404	215	\$11,618.60	185	\$ 9,997.40
Nut.....	42.6%	5,755	175	10,071.25	160	9,208.00
Slack...	17.4%	<u>2,351</u>	145	<u>3,408.95</u>	135	<u>3,173.85</u>
		13,510		\$25,098.80		\$22,379.25

The revenue received under the rates in effect prior to April 18th, 1916, result in a revenue per ton mile of 1.8¢, and under the rates as prescribed by the Commission 1.6¢. The rates found reasonable by the Commission will give a revenue per ton mile to the defendant of 1.9¢ on lump coal, 1.7¢ on nut coal and 1.4¢ on slack coal. The average revenue per ton mile on The Denver & Rio Grande Railroad within the State of Colorado on coal traffic for the year 1912 was 1.029¢; for 1913, 1.047¢; for 1914, 1.042¢.

In only one or two instances do the rates fixed by the Commission result in producing 1¢ per ton mile or less, and in these cases the low revenues per ton mile are and have been received by the defendant on such traffic, as the rates were not altered by the Commission.

The average rate on lump coal, as set forth by the Commission in this order, is \$1.77 to all points; on nut coal, \$1.53, or 87% of the lump rate; and on slack coal, \$1.31, or 74% of the lump rate. The former average rate on nut coal was 90% of the rate on lump coal; on slack coal, 72%.

Some reference was made by the defendant to the charge they are required to pay The Colorado & Southern Railway Company for trackage rights when the coal originates at mines located on The Colorado & Southern Railway, from which the Walsenburg District rates apply. This charge, as stated by Mr. Wild, varies from \$2.00 to \$5.00 per car, according to the distance handled by The Colorado & Southern Railway, and that amount is absorbed by The Denver & Rio Grande Railroad Company from its

earnings. This condition exists not only when the traffic is destined to San Luis Valley, but prevails on coal moving from Walsenburg to all other points on The Denver & Rio Grande Railroad.

The total amount of coal from mines located on The Colorado & Southern Railway to Monte Vista, during the period mentioned above, was 539 tons, or 4% of the total movement from the Walsenburg District.

The Commission is of the opinion that the differential on coal from the Trinidad District should not be any greater when applied to rates ~~to~~ to points in the San Luis Valley than to other points on the defendant's lines, and finds that rates from the Trinidad District should be uniformly 25¢ higher than the rates from the Walsenburg District. Coal traffic from the Trinidad District must necessarily move over the same tracks as the coal originating in the Walsenburg District from La Veta to all points of destination in the San Luis Valley.

The rates from the Canon City District to all points between La Veta, Creede and Antonito should likewise be made upon a certain differential over the Walsenburg District rates, as the coal must move over the same line from La Veta to the points of destination. The Commission is of the opinion that 60¢ would be a reasonable differential from the Canon City mines, and that any greater differential than that would be excessive, and so finds. The rates on coal from the Canon City District to points between Villa Grove and Alamosa must include a sufficient sum to provide for the transfer of the coal from broad to narrow gauge cars at Salida, and this fact has been taken into consideration by the Commission.

The present rates from Crested Butte District on bituminous coal are upon the same basis as the rates from the Canon City District. The Commission does not believe that these rates should be the same, and is of the opinion that there should be a differential established. The distance is somewhat

greater than that from the Canon City District. The Commission finds that a differential of 15¢ over the Canon City rates will result in the establishment of fair and reasonable rates from the Crested Butte District to all points except East of Alamosa, to which points reasonable and just rates are specifically provided.

The present rates on anthracite coal from the Crested Butte District vary from 90¢ to \$1.10 per ton higher than the bituminous lump rates. The anthracite coal originates at branch line points out of Crested Butte where the operation is rather difficult and which are possible to operate only during the summer months. The Commission, however, is of the opinion that 80¢ is a sufficient amount over the bituminous lump rate at which the rates on anthracite coal should be fixed, and that such a differential will be sufficient to cover the additional cost of the service and take into consideration the additional value of the commodity handled.

The rates from the Somerset District on lump coal vary from 50¢ to 65¢ over the rates from the Crested Butte District. The Commission is of the opinion that a differential of 50¢ from the Somerset District over the Crested Butte District is entirely reasonable and just, and so finds. The application of this differential will result in leaving practically all of the slack rates from the Somerset District unchanged.

An order will be entered requiring the cancellation of the present rates on coal as charged by The Denver & Rio Grande Railroad Company to points in the San Luis Valley, and reasonable and just rates will be prescribed for the future in accordance with the above findings.

O R D E R

IT IS ORDERED, That the defendant, The Denver & Rio Grande Railroad Company be, and it is hereby, ordered to cease and desist from charging, demanding, collecting, or receiving

^{its}
~~their~~ present rates for the transportation of bituminous coal from the Walsenburg, Trinidad, Canon City, Crested Butte and Sometset Districts, and for the transportation of anthracite coal from the Crested Butte District, to points in the San Luis Valley designated as follows: La Veta, Francisco, La Veta Pass, Sierra, Russell, Garland, Blanca, Alamosa, Monte Vista, Del Norte, Wagon Wheel Gap, Creede, Mosca, Hooper, Moffat, Villa Grove, Orient, La Jara, Romeo and Antonito.

IT IS FURTHER ORDERED, That the defendant, The Denver & Rio Grande Railroad Company be, and it is hereby, ordered to establish and put in force the following rates for the transportation of lump, nut and slack bituminous coal, and anthracite coal, which rates shall be in cents per ton of 2,000 pounds and shall not be exceeded to any point of destination located between two specified points of destination:

	Bituminous Coal								
	Walsenburg District			Trinidad District			Canon City District		
	Lump	Nut	Slack	Lump	Nut	Slack	Lump	Nut	Slack
La Veta.....	75	65	65	100	90	90	135	125	125
Francisco.....	100	90	75	125	115	100	160	150	135
La Veta Pass.....	125	100	85	150	125	110	185	160	145
Sierra.....	130	105	90	155	130	115	190	165	150
Russell.....	130	105	90	155	130	115	190	165	150
Garland.....	150	125	110	175	150	135	210	185	170
Blanca.....	150	125	110	175	150	135	210	185	170
Alamosa.....	170	145	125	195	170	150	230	205	185
Monte Vista.....	185	160	135	210	185	160	245	220	195
Del Norte.....	195	170	145	220	195	170	255	230	205
Wagon Wheel Gap...	215	190	150	240	215	175	275	250	210
Creede.....	220	195	150	245	220	175	280	255	210
Mosca.....	190	165	140	215	190	165	220	195	170
Hooper.....	200	175	150	225	200	175	210	185	160
Moffat.....	220	195	170	245	220	195	200	175	150
Villa Grove.....	240	215	190	265	240	215	190	165	140
Orient.....	260	235	210	285	260	230	210	185	160
La Jara.....	185	160	135	210	185	160	245	220	195
Romeo.....	190	165	140	215	190	165	250	225	200
Antonito.....	195	170	145	220	195	170	255	230	205

	Crested Butte District				Somerset District			
	Bituminous			Anthracite	Bituminous			
	Lump	Nut	Slack		Lump	Nut	Slack	
La Veta.....	-	-	-	-	-	-	-	-
Francisco.....	-	-	-	-	-	-	-	-
La Veta Pass.....	-	-	-	-	-	-	-	-
Sierra.....	-	-	-	-	-	-	-	-
Russell.....	-	-	-	-	-	-	-	-
Garland.....	270	245	200	350	-	-	-	-
Blanca.....	260	235	185	340	-	-	-	-
Alamosa.....	245	220	175	325	295	270	225	-
Monte Vista.....	260	235	185	340	310	285	235	-
Del Norte.....	270	245	200	350	320	295	240	-
Wagon Wheel Gap...	290	265	225	370	340	315	250	-
Creede.....	295	270	225	375	345	320	250	-
Mosca.....	235	210	185	315	285	260	225	-
Hooper.....	225	200	175	305	275	250	220	-
Moffat.....	215	190	165	295	265	240	200	-
Villa Grove.....	205	180	155	285	255	230	190	-
Orient.....	225	200	175	305	-	-	-	-
La Jara.....	260	235	200	340	-	-	-	-
Romeo.....	265	240	205	345	-	-	-	-
Antonito.....	270	245	210	350	-	-	-	-

IT IS FURTHER ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, shall publish and make effective the rates herein set forth by this order on or before July 1st, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. A. Kendall

M. H. G. Lunn

Geo T. Bradley
Commissioners

Dated at Denver, Colorado,
this 20th day of June, 1916

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AMERICAN SMELTING AND REFINING COMPANY,)

Complainant,)

-vs-

CHICAGO, BURLINGTON AND QUINCY RAILROAD
COMPANY,)

Defendant,)

June 28, 1916
CASE NO. 80

ORDER FOR SPECIFICATIONS.

WHEREAS, on the 12th day of June, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under pretext, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 22nd day of June, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting

forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo T. Bradley
M H G Lewis

Dated at Denver, Colorado,
this 28th day of June, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

AMERICAN SMELTING AND REFINING COMPANY,)

Complainant,)

-vs-

THE COLORADO & SOUTHERN RAILWAY COMPANY,)

Defendant)

June 28, 1916

CASE NO. 81

ORDER FOR SPECIFICATIONS

WHEREAS, on the 12th day of June, 1916, the Complainant herein filed with the Commission its verified complaint alleging that during a certain period of time, more specifically set out in said complaint, the Defendant had charged and collected from the said Complainant, under protest, rates for the hauling of coal shipped by the Complainant over the railroad lines of the Defendant, which rates had been declared unjust, unreasonable, excessive, exorbitant and unlawful by the State Railroad Commission of Colorado prior to the dates of said shipments; and

WHEREAS, the said complaint asks for an order of this Commission ordering the Defendant to pay to the Complainant as reparation and damages certain sums of money representing illegal and unlawful charges made and collected by the said Defendant from the said Complainant on said shipments of coal; and

WHEREAS, on the 22nd day of June, 1916, the Defendant in the above cause filed with this Commission a motion requesting the Commission for an order requiring the Complainant to file with the Commission and with the Defendant, within a time to be fixed by the Commission, an itemized statement setting

forth in detail with respect to each of the numerous shipments of coal concerning which complaint is made, the date thereof, the names of the consignor and consignee, car number and initials, weight, class or kind of coal, the rate actually applied and the rate claimed to be applicable, and in addition such other information as may be available and which will enable Defendant to check said itemized statement with its records; and further alleging that the statements contained in the complaint of the Complainant relative to the subject matter of the complaint are so general and indefinite in character that the Defendant is not in a position either to admit, deny or defend against the same, and that Defendant cannot place itself in position so to do without the specific information hereinabove requested; and

WHEREAS, The Commission is fully advised in the premises.

IT IS THEREFORE ORDERED, That the Complainant furnish to the Commission and to the Defendant, within thirty (30) days from the date of this order, a written statement setting forth the information requested by the Defendant carrier.

IT IS FURTHER ORDERED, That the Defendant have twenty (20) days from the date of the filing by the Complainant of said itemized statement or bill of particulars with the Commission and the Defendant within which to answer the complaint of the Complainant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo. T. Bradley
M. H. G. Smith

Dated at Denver, Colorado this 28th day of June, 1916.

ORIGINAL

BEFORE THE
PUBLIC UTILITIES COMMISSION
of the
STATE OF COLORADO.

In the Matter of an Investigation and Hearing,
on motion of the Commission, into the reason-
ableness of the rates and charges, and into
the adequacy of the service, and the rules,
regulations and practices surrounding the
same, of The Western Colorado Power Company
at Montrose, Delta and Olathe, Colorado, and
all of the territory served by The Western
Colorado Power Company from its generating
stations located at Montrose and Delta,
Colorado.

July 3, 1916

CASE NO. 85

INVESTIGATION ON MOTION OF THE COMMISSION

IT IS HEREBY ORDERED, That the Commission, on its own motion, institute an investigation as to the reasonableness of the rates and charges, and into the adequacy of the service, and the rules, regulations and practices surrounding the same, of The Western Colorado Power Company at Montrose, Delta and Olathe, Colorado, and all of the territory served by The Western Colorado Power Company from its generating stations located at Montrose and Delta, Colorado; that The Western Colorado Power Company be, and it is hereby, ordered to appear at the county court house in the City of Delta, Colorado, on the 4th day of December, 1916, at the hour of 10 o'clock a.m., before the Commissioners en banc, to make such showing in the above cause as may be thought necessary by the said defendant.

IT IS FURTHER ORDERED, That the Secretary of this Commission be, and he is hereby, directed to serve upon the above named public utility a certified copy of this order, accompanied by a notice directing the said public utility to appear before this Commission

at the time and place above specified, to take such part in the said hearing as the said defendant may desire, and make such showing as may appear necessary to the said defendant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Geo. T. Bradley

M. H. A. [unclear]
Commissioners

Dated at Denver, Colorado,
this 3rd day of July, 1916.

BEFORE THE
PUBLIC UTILITIES COMMISSION
of the
STATE OF COLORADO

In the Matter of an Investigation and Hearing,
on motion of the Commission, into the reason-
ableness of the rates and charges, and into
the adequacy of the service, and the rules,
regulations and practices surrounding the
same, of The Western Colorado Power Company
at Montrose, Delta and Olathe, Colorado, and
all of the territory served by The Western
Colorado Power Company from its generating
stations located at Montrose and Delta,
Colorado.

CASE NO. 85

NOTICE OF HEARING.

To the above,
The Western Colorado Power Company:

YOU ARE HEREBY NOTIFIED that, on the 5th day of May, 1916,
The Uncompahgre Valley Water Users' Association, by resolution
adopted, requested the State Public Utilities Commission to make
an investigation as to the reasonableness of the rates charged
for electric energy in the Uncompahgre Valley within the State of
Colorado.

YOU ARE FURTHER NOTIFIED that such investigation and hearing
will be convened in the county court house in the City of Delta,
Colorado, on the 4th day of December, 1916, at the hour of 10
o'clock a.m.

YOU ARE FURTHER NOTIFIED to appear at such investigation and
hearing and take such part therein and make such shewing on your

own behalf as you may desire or your interests seem to require.

YOU ARE FURTHER NOTIFIED that, attached hereto is a certified copy of the Commission's order instituting such investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

By

George T. Odey
Secretary

Dated at Denver, Colorado,
this 3rd day of July, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

A.W.THORMAN, et al,

Complainants,

vs.

THE DENVER & INTERURBAN RAILROAD
COMPANY,

Defendant.

Case No.55.

Submitted June 26,1916.

Decided July 11,1916.

Appearances:-

Messrs.Lee & Shaw, for the objectors on North College Avenue,
L.D.Thomason, Esq., for the Union Pacific Railroad Company, and
objectors on Jefferson Street,
E.E.Whitted, Esq., and
A.S.Brooks, Esq.,
for The Denver & Interurban Railroad Company.

STATEMENT AND ORDER.

On the 13th day of April,,1916, a written petition, signed by fifty-two citizens of Fort Collins, Colorado, was filed with the Commission, alleging in substance that for a period of years The Denver & Interurban Railroad Company has operated a street railway within the City of Fort Collins under a franchise granted to the said The Denver & Interurban Railroad Company by the City of Fort Collins, and has operated street cars on North College Avenue and Jefferson Street, and on other streets within the said City of Fort Collins on a 20-minute schedule.

The petition also alleged that The Denver & Interurban Railroad Company had announced its intention of discontinuing its present street car service on North College Avenue from Mountain Avenue north to Jefferson Street, and on Jefferson Street from North College Avenue to Linden Street, in the said City of Fort Collins. It is further alleged that the discontinuance of the service would injuriously affect the petitioners, and other citizens, and owners of property within the City of Fort Collins, and the petitioners pray for relief.

On the 24th day of May, 1916, the Defendant corporation filed with the Commission a demurrer and answer in this cause, and, for grounds of demurrer, alleged that the Public Utilities Commission of the State of Colorado has no jurisdiction, power or authority under the Public Utilities Act, or under any other law or statute of the State of Colorado, to hear, consider or determine the matters set forth in said petition, and that said Commission has no authority, power or jurisdiction to make and enter an order granting the relief prayed for by the petitioners.

The Defendant, in its answer to the petition, admits that it operates a street car system over certain streets and avenues in the City of Fort Collins, State of Colorado, under and by virtue of the terms and conditions of a certain franchise granted to the Defendant corporation by the City of Fort Collins, and admits that it contemplates the discontinuance of service on certain streets in the City of Fort Collins and removal therefrom of its tracks and poles; and that the Defendant corporation has heretofore presented to the City Commissioners of the City of Fort Collins a certain petition requesting authority to take up and remove certain of its tracks as set forth in the said petition, and that on the 22nd day of May, 1916, at a regular meeting of the City Council of the City of Fort Collins, Colorado, a resolution was adopted by the City Council of the City of Fort Collins, spreading at length upon the journal of the council the petition of The Denver & Interurban Railroad Company, a true copy of the said petition being as follows:

" Denver, Colorado, May 20, 1916.

To The Honorable The City Commissioners
of the City of Fort Collins:
Gentlemen:

Your petitioner, The Denver & Interurban Railroad Company, would respectfully represent to your honorable body, that under the provisions of Ordinance No. 13, of the Series of 1906 of the City of Fort Collins, it has constructed certain street railway lines in the City of Fort Collins and is operating cars thereover.

That one of these lines is upon College Avenue from Mountain Avenue to Pitkin Street, and on Pitkin Street to Remington Street, and thence on Remington Street to Elizabeth Street, and thence back to College Avenue, forming a loop at the southern terminus of its said College Avenue line.

That it also operates a line of cars on Whedbee Street from Magnolia Street to Elizabeth Street. That it has the franchise right to extend its Whedbee Street line south from its present terminus at Elizabeth Street to Edwards Street, and on Edwards Street from Remington to Whedbee and desires to do so and make this a loop connecting the College and Whedbee Street lines.

"That if this be done it will be unnecessary longer to continue the operation of the track upon Remington Street between Edwards and Elizabeth Streets.

Your petitioner therefore respectfully requests the approval of your honorable body to this change of line and to the abandonment of the tracks as hereinbefore stated.

Your petitioner further represents that it is also the owner and now operates under the provisions of said franchise ordinance, a railroad track on North College Avenue from Mountain Avenue to Jefferson Street, and on Jefferson Street from College Avenue to Linden Street.

That it desires to abandon the operation of this track, as it has always made its transfer of passengers from one line to another at the corner of Mountain Avenue and College Avenue, and expects to continue that place as its transfer point.

That by the abandonment of this portion of its line, it believes it can give better service to the vast majority of the people of Fort Collins, without any detriment to the particular locality at present served by this line.

If your petitioner is permitted to abandon this portion of its road, it agrees that it will replace in good condition the portion of the streets at present covered by its tracks so to be abandoned, and where, upon Jefferson Street, the highway has been paved, it will replace such paving. All work to be done in a manner satisfactory to the City.

Your petitioner further agrees, that inasmuch as a paving ordinance covering College Avenue, between Mountain Avenue and LaPorte Avenue has been passed, and such Ordinance was enacted upon the theory that The Denver & Interurban Railroad Company would be called upon to pay for the paving of such portion of the street as is covered by its track, and therefore the estimate of expense to abutting property owners on such street was based upon a proportion of the cost of paving, after deducting The Denver & Interurban Railroad Company's proportion, your petitioner agrees to pay the same proportion of such cost of paving between Mountain Avenue and LaPorte Avenue, as it would have been called upon to pay were its tracks still upon said street.

Your petitioner respectfully requests that this petition be granted, and the consent of the City of Fort Collins be given:

First: To the change of line connecting College Avenue and Whedbee Street in the southern portion of the City; and

Second: To the abandonment of that portion of its line on North College Avenue and Jefferson Street, as hereinbefore set forth.

THE DENVER & INTERURBAN RAILROAD COMPANY
By E.S.Koller."

The City Council of Fort Collins, at a regular meeting on the 22nd day of May, 1916, voted favorably on the matters presented by The Denver & Interurban Railroad Company in the above petition.

The Commission convened the above cause at Fort Collins, Colorado, at the County Court House, at 10:00 o'clock a.m., on the 31st day of May, 1916, at which time the demurrer of The Denver & Interurban Railroad Company to the complaint of the petitioners was temporarily overruled.

Paul W. Lee, representing all the petitioners, with the exception of those located on Jefferson Street, requested a continuance of the above cause for a period of sixty days, stating that representatives of The Denver & Interurban Railroad

Company had held an informal conference with representatives of the petitioners, and that it was the desire of the petitioners represented by Lee & Shaw, and The Denver & Interurban Railroad Company, to present to the Commission at a future date a contemplated compromise of the matters involved.

There being no objection to the request for a continuance of the above cause for a period of sixty days, the hearing was adjourned until the 25th day of July, 1916, unless the Commission should upon due notice order the cause to be heard at an earlier date.

An order also was entered that The Denver & Interurban Railroad Company should remove no tracks or abandon no service within the City of Fort Collins until the cause was heard and determined by the Commission.

The Commission having received notice that a compromise had been agreed upon, gave notice to the public, petitioners and The Denver & Interurban Railroad Company that the cause would be heard at the County Court House in the City of Fort Collins, Colorado, at the hour of 1:30 p.m., on the 26th day of June, 1916.

On the 10th day of June, 1916, there was filed with the Commission a written petition signed by owners of property located on Jefferson Street between Pine and Linden Streets, within the City of Fort Collins, protesting against the removal of the street car tracks of the Defendant corporation on Jefferson Street between Pine and Linden Streets, for the reason that the said,-

"removal and abandonment of the service thereon would be a detriment to the business in that part of the City and would cause considerable depreciation in the value of the real estate."

This petition was made a part of the record of the Commission.

The hearing of the above cause was convened at the County Court House in the City of Fort Collins, Colorado, on the 26th day of June, 1916, at the hour of 1:30 p.m.

The Denver & Interurban Railroad Company operates an interurban line of railway between Denver, Colorado, and Boulder, Colorado, and a street railway at Fort Collins, Colorado. It was the apparent intention of The Denver & Interurban Railroad Company to ultimately construct an interurban railroad from the City of Denver to the City of Fort Collins, serving intermediate points. It is now operating and has heretofore operated the lines owned by it under one general management and control.

Evidence submitted by witnesses for The Denver & Interurban Railroad Company tends to show that the portion of its line of railway operating within the City of Fort Collins, and crossing the boundary line of the city limits of Fort Collins at several points, never has earned operating expenses, and the corporation now desires to economize in the operation of its system located at Fort Collins to the end that the net operating revenues of the company may be increased and at the same time preserve the adequacy of its service within the City of Fort Collins. Fort Collins is a city of about 11,000 inhabitants, and it appears at this time to be adequately served by the Defendant corporation with a complete system of street railway lines, with cars operating on a 20 minute schedule.

The Defendant corporation, in its demurrer and answer filed with the Commission on the 24th day of May, 1916, challenges the jurisdiction of the Commission over the issues of this cause, and takes the position that the City Commissioners of Fort Collins may authorize an abandonment of service within the City limits of Fort Collins, which is binding upon this Commission, and which is a complete defense to the petition of the petitioners filed with this Commission on the 13th day of April, 1916.

The Commission has held many times that it has original and exclusive jurisdiction over every public utility defined by the Public Utilities law to be a public utility, operating within the State of Colorado, and that the jurisdiction of the Commission extends to all matters pertaining to the service and rates of all public utilities specifically designated by the Legislature as public utilities, street railways having been so designated.

It is not necessary, however, for further discussion of this question as the Honorable Supreme Court of the State of Colorado on the 3rd day of July, 1916, in the case of Denver & South Platte Railway Company vs. City of Englewood, fully sustained the position heretofore taken by the Commission, and in the opinion of the Court, written by Mr. Justice Scott, we find the following:

"This act is very broad and seems to confer the absolute power to regulate, both as to rates and otherwise, all public utilities within the state, at least all such as are specified in the act, and among which are street railways." * * *

"From the sections quoted, and from other provisions of the act, it fully appears that the legislature intended to delegate to the Public Utilities Commission the administration, supervision and regulation of all

service rendered to the public throughout the state, including municipalities. Rates and regulations fixed by contract are specifically included within the powers of the commission." * * *

"It follows therefore, that the power to regulate the rates of the public utility in question, is vested by the act exclusively in the Public Utilities Commission. The law fully provides that every order or decision made by the Commission, may be reviewed by the Supreme Court upon the application of either party, or of any person pecuniarily interested in the utility, for the purpose of having the lawfulness of the order or revision determined."

It was the original intention of the Defendant corporation to abandon street car service and remove its tracks from a point located at the intersection of Mountain and College Avenues north two blocks along College Avenue, and east two blocks on Jefferson Street. The compromise agreed to by the Defendant corporation and all of the petitioners, with the exception of those owning property on Jefferson Street between Pine and Linden Streets, contemplates that the Defendant corporation will maintain its present schedule of service and operate its street car line from the intersection of Mountain and College Avenues one block north on College Avenue, and thence east on Walnut Street to Linden Street, thus forming a loop from the intersection of Mountain and College Avenues north on College Avenue to Walnut Street, east on Walnut Street to Linden Street, and south on Linden Street to the intersection of College and Mountain Avenues, still operating its cars and maintaining its line of railway on Linden Street between Mountain Avenue and Jefferson Street, and abandoning its service and removing its street car tracks from the intersection of College Avenue and Walnut Street north on College Avenue to Jefferson Street and thence east on Jefferson Street to Linden Street.

The Commission therefore has had presented to it the proposition of the abandonment of service and the removal of street car tracks for three blocks within the City of Fort Collins and the construction of street car track on one block on Walnut Street between College Avenue and Linden Street.

It is the contention of the Defendant corporation that the proposed change in service will shorten the Lindemier Lake line of the Defendant corporation within the City of Fort Collins, thereby shortening the longest line of the Defendant corporation, and also permitting the installation of lighter cars, operated by one man, which plan, according to the evidence, is contemplated by the Defendant corporation.

The proposed compromise adjustment will result in the abandonment and removal of three long blocks of railway tracks, and it is apparent from the evidence that the service of the Defendant corporation upon College Avenue from Walnut Street to Jefferson Street, and on Jefferson Street from College Avenue to Pine Street is in no way necessary to adequate service, unless the fact be true, as contended by the Union Pacific Railroad Company, that this service is necessary to accommodate the patrons of the Union Pacific Railroad Company, whose station is located on the line of the street railway of the Defendant corporation at Pine and Jefferson Streets. It is alleged by the owners of property on Jefferson Street between Pine and Linden Streets that the abandonment and removal of tracks on this portion of Jefferson Street will depreciate the value of such property, although it is not seriously contended by these objectors that the Defendant corporation should operate its line of railway on Jefferson Street between Pine and Linden Streets to make the service of the Defendant corporation within the City of Fort Collins adequate.

It is apparent that, even in the most disagreeable weather, few of the residents of Fort Collins take advantage of the service offered by the Defendant corporation to the Union Pacific depot, and that the incoming patrons of the Union Pacific Railroad Company and of the Defendant corporation would not be injured by the abandonment of the service now rendered by the Defendant corporation from the Union Pacific depot at Fort Collins, for the reason that the cars of the Defendant corporation passing the Union Pacific depot have as their destination Lindenmier Lake, and this portion of the Defendant corporation's line of railway serves practically an unsettled part of the City of Fort Collins and vicinity and would in no way be of benefit to the patrons of the Union Pacific Railroad Company. In the event the proposed compromise adjustment is permitted the Union Pacific depot will be located only one block from the car line.

On the 22nd day of May, 1916, the City Commissioners of Fort Collins voted to permit the Defendant corporation to abandon its service and remove its railway tracks from the intersection of College Avenue and Mountain Avenue north on College Avenue to Jefferson Street and east on Jefferson Street to Linden Street. This Commission is of the opinion that such removal of tracks and abandonment of service

would result in inadequate service, in that the territory from Mountain Avenue on College Avenue to Walnut Street is an important commercial center and should be served by the Defendant corporation, but the proposed compromise, which is agreeable to the Defendant corporation and all of the petitioners with the exception of those located on Jefferson Street between Pine and Linden Streets, contemplates an extension of street railway lines and service on Walnut Street, between College Avenue and Linden Street, upon which is located the City Hall of Fort Collins and other important business buildings, and does not contemplate the abandonment of service and the removal of the tracks of the Defendant corporation on College Avenue from Mountain Avenue to Walnut Street. It is true that business buildings are located on the south side of Jefferson Street, between Pine and Linden Streets, but, due to the nature of the service of the Defendant corporation, as well as the kinds of business conducted in this block, it is apparent to the Commission that the service of the Defendant corporation in this block is of no particular importance to the patrons of the Defendant corporation.

On the 19th day of June, 1916, the Defendant corporation applied to the City Council of the City of Fort Collins for a permit to The Denver & Interurban Railroad Company to construct and maintain a railroad track upon Walnut Street between College Avenue and Linden Street, the petition having attached thereto the consent of a majority in frontage of the owners of the property abutting on Walnut Street between College Avenue and Linden Street in the City of Fort Collins, and on the 19th day of June, 1916, the City Council of the City of Fort Collins granted a revocable permit to the Defendant corporation to construct a line of railway on Walnut Street between College Avenue and Linden Street in accordance with the prayer of the petition of the Defendant corporation. A resolution also was adopted by the City Council of the City of Fort Collins reaffirming the position of the City Council in permitting the Defendant corporation to remove its tracks and abandon its service on College Avenue for one block north of Walnut Street and two blocks east of College Avenue on Jefferson Street, and rescinding the action theretofore taken by the City Council which permitted the Defendant corporation to remove its tracks and abandon its service on College Avenue between Mountain Avenue and Walnut Street.

Evidence introduced by property owners to the effect that abandonment of street car service and the removal of street railway tracks will depreciate the value of property, or to the effect that an extension of street railway tracks will appreciate the value of property, cannot be considered by the Commission. Every public utility under the jurisdiction of the Commission must furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the health, comfort and safety of its patrons, employes and the public, and as shall in all respects be adequate, efficient, just and reasonable, but the Commission has no authority to order an extension of a street railway line because it will enhance the value of property, nor has it the authority to prohibit the removal of street railway tracks for the reason that the removal of said tracks will depreciate the value of property. This Commission is not an instrument to aid in increasing real estate values, nor to lend assistance to property owners to maintain the present value of their property.

It is the conclusion of the Commission that The Denver & Interurban Railroad Company should be permitted to remove that portion of its line of railway and abandon that portion of its service within the City of Fort Collins on College Avenue north of Walnut Street to Jefferson Street and thence east on Jefferson Street to Pine Street, and that accompanying the removal of said tracks and the abandonment of said service the Defendant corporation, having received the consent of a majority in frontage of the owners of property abutting on Walnut Street between College Avenue and Linden Street, and having received a revocable permit to construct its line of railway along Walnut Street between College Avenue and Linden Street, shall construct a line of railway on Walnut Street between College Avenue and Linden Street which shall connect with its system of street railway on College Avenue and Linden Street, and which shall be efficiently operated by the Defendant corporation in connection with its street railway system in Fort Collins, Colorado.

It is further understood that any agreements which the Defendant corporation may have had with the City Council of the City of Fort Collins in regard to the apportioning of the expense improving streets in Fort Collins shall not be disturbed or be affected by this order.

IT IS THEREFORE ORDERED, That The Denver & Interurban Railroad Company may remove its railway tracks and discontinue its street car service on College Avenue between Walnut Street and Jefferson Street, thence east on Jefferson Street to Linden Street.

IT IS FURTHER ORDERED, That the Denver & Interurban Railroad Company shall construct a line of railway on Walnut Street between College Avenue and Linden Street and connect and operate the same as a part of its line of railway on College Avenue and Linden Street, in the event the Defendant corporation decides to remove its tracks and abandon its service in accordance with this order.

IT IS FURTHER ORDERED, That the Defendant corporation shall not remove its railway tracks or discontinue its service on College Avenue between Mountain Avenue and the intersection of College Avenue with Walnut Street.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Hendrick

Geo. T. Bradley

M. H. Hunt
Commissioners.

Dated at Denver, Colorado,
this 11th day of July, 1916.

ORIGINAL

BEFORE
THE PUBLIC UTILITIES COMMISSION
of the
STATE OF COLORADO

THE GRAND JUNCTION MINING & FUEL COMPANY,
a Corporation,

and

THE PALISADE COAL & SUPPLY COMPANY,
a Corporation,

Complainants,

vs.

CASE NO. 41

THE DENVER & RIO GRANDE RAILROAD COMPANY,

Defendant,

THE COLORADO MIDLAND RAILWAY COMPANY,
George W. Vallery, Receiver,

Intervenor.

Submitted March 13, 1916

Decided July 25, 1916

APPEARANCES:

Whitehead & Vogl,
Guy D. Duncan, Esq.,
For the complainants;

E.N.Clark, Esq.,
J.G.McMurry, Esq.,
W.M.Lampton, Esq.,
For the defendant;

L.A.Rafert, Esq.,
G.A.H.Fraser, Esq.,

For the intervenor.

On the 8th day of October, 1915, a complaint was
filed by the above named corporations, duly organized and exist-
ing under and by virtue of the laws of the State of Colorado,

stating that the complainant, The Grand Junction Mining & Fuel Company, operates a coal mine at Cameo, Colorado, and the complainant, The Palisade Coal & Supply Company, operates a coal mine at Palisade, Colorado, both of which stations are located on the Denver & Rio Grande Railroad in Mesa County; that the rates charged by the defendant for the transportation of coal in carloads from such stations to all points of destination as shown in the defendant's freight tariff No. 5406, Colorado P.U.C. No. 268, and supplements thereto, which territory may be described as follows:

The main line of the defendant running west from
Salida to and including Mack,
The line from Salida to and including Montrose,
and
The line south from Grand Junction to and including
Ouray,

are, and each of them is, unjust and unreasonable and in violation of the provisions of Section 15 of the Public Utilities Act; that the defendant refuses to publish through rates for the transportation of coal from its mines to stations on its line east of Salida to and including Denver, Colorado, and by reason thereof the complainants are prevented from marketing their coal at said stations; and that the aforesaid alleged unreasonable rates, together with the absence of rates to points east of Salida, subject the complainants to undue and unfair prejudice and disadvantage, and give to the coal operators located in the Bowie, Somerset and Crested Butte Districts in Colorado, and the Thompson District in Utah, an unfair and unlawful preference and advantage over the complainants; and complainants pray for the establishment of just and reasonable rates.

The defendant, in its answer, denies that the rates complained of are unreasonable and that the rates subject the complainants to any undue and unfair prejudice and disadvantage and give operators in other localities an unfair and unlawful preference and advantage over the complainants; and admits that

there are no rates published from defendant's mines to stations east of Salida, but denies that it has refused to publish such rates and, on the contrary, alleges that it is willing to make a fair and reasonable basis of rates to such points.

Pursuant to notice duly given to the parties in interest, this cause came on for hearing before the Commissioners en banc on the 15th day of December, 1915.

The complainants' mines at Cameo and Palisade are located on the tracks of the Rio Grande Junction Railway Company, which railway extends from Rifle to Grand Junction, and upon which The Denver & Rio Grande Railroad Company and The Colorado Midland Railway Company each have joint use of the tracks and each pays to the Rio Grande Junction Railway Company 30% of the gross earnings accruing therefrom.

Due to its interest in this cause, The Colorado Midland Railway Company, though not a defendant to the present complaint, was allowed to intervene at the hearing.

The present rates charged by The Denver & Rio Grande Railroad Company for transportation of coal in carloads from Cameo and Palisade to all points of destination included in this cause, with the exception of stations east of Salida to Denver, to which points there are no through rates, are as follows:

		FROM CAMEO AND PALISADE					
		Rates are in cents per ton					
To	Mileage	Lump Coal		Nut Coal		Slack Coal	
		Rate	Per ton mile Mills	Rate	Per ton mile Mills	Rate	Per ton mile Mills
Salida	220	250	11.3	250	11.3	250	11.3
Buena Vista	195	250	12.8	225	11.5	200	10.3
Granite	178	250	14.1	225	12.6	200	11.2
Leadville	169	250	14.8	225	13.3	175	10.3
Red Cliff	141	250	17.7	225	16.0	175	12.4
Minturn	133	240	18.0	215	16.2	175	13.2
Wolcott	116	215	18.6	195	16.8	170	14.7
Eagle	106	205	19.3	185	17.4	160	15.1
Gypsum	99	190	19.2	175	17.7	150	15.2

FROM CAMERO AND PALISADE
Rates are in cents per ton

To	Mileage	Lump Coal		Nut Coal		Slack Coal	
		Rate	Per ton	Rate	Per ton	Rate	Per ton
			<u>mile</u> <u>Mills</u>		<u>mile</u> <u>Mills</u>		<u>mile</u> <u>Mills</u>
Dotsero	92	175	19.0	175	19.0	150	16.3
Shoshone	84	150	17.8	150	17.9	150	17.9
Glenwood Springs .	75	110	14.6	110	14.6	110	14.6
Carbondale	88	150	17.0	150	17.0	150	17.0
Aspen	116	175	15.1	175	15.1	150	12.9
New Castle	62	110	17.7	110	17.7	110	17.7
Silt	55	110	20.0	110	20.0	110	20.0
Antlers	52	110	21.1	110	21.1	110	21.1
Rifle	48	110	22.9	110	22.9	110	22.9
Grand Valley	31	110	35.5	110	35.5	110	35.5
De Beque	18	100	55.5	100	55.5	100	55.5
Grand Junction ...	14	60	42.9	60	42.9	50	35.4
Durham	16	70	43.6	70	43.6	55	34.4
Ute	19	85	44.7	85	44.7	60	31.6
Fruita	26	100	38.4	95	35.6	70	27.0
Loma	31	100	32.3	95	30.6	85	27.4
Mack	34	100	29.3	95	28.0	90	26.4
Whitewater	26	100	38.8	95	35.5	90	34.6
Delta	65	185	28.5	160	24.6	150	23.1
Olathe	76	200	26.3	175	23.0	150	19.7
Montrose	86	200	23.3	175	20.4	150	17.5
Cimarron	109	300	27.5	275	25.2	200	18.4
Sapinero	124	310	25.0	285	23.0	225	18.2
Gate View	138	315	22.8	290	21.0	250	18.1
Lake City	159	325	20.4	300	18.9	275	17.3
Uncompahgre	94	225	24.0	200	21.3	175	18.6
Dallas	108	250	23.1	225	20.8	175	16.2
Ridgway	111	250	22.5	225	20.2	175	15.8
Ouray	121	300	24.8	275	22.7	200	16.5

From the above table it will be noted that in no case do the rates result in giving to the carrier less than 1¢ per ton per mile, while in some instances the revenue per ton per mile is as high as 5¢.

The production of coal for the years 1911 to 1915 inclusive at the mines of the complainants at Cameo and Palisade, as well as at the mines of the Juanita Coal & Coke Company, at Bowie, (King Mine), and the Utah Fuel Company, at Somerset, in tons of 2,000 pounds, has been as follows:

<u>Year</u>	<u>Cameo</u>	<u>Palisade</u>	<u>King</u>	<u>Somerset</u>
1911	46,457	12,011	54,695	274,528
1912	62,226	10,313	56,733	266,504
1913	89,521	7,248	69,662	223,393
1914	114,899	6,866	78,037	271,602
1915	62,141	6,652	61,955	293,877
Average	75,048	8,618	64,216	265,981

The coal produced at the Cameo and Palisade mines is classified as semi-bituminous and that of the King and Somerset mines as bituminous. The average number of days worked at the Cameo mines per year during the five year period was 200; the palisade mine, 131; the King mine, 161; and the Somerset mine, 245; which gives an average daily output at the Cameo mine of 375 tons, the Palisade mine 66 tons, the King mine 399 tons, and the Somerset mine 1086 tons. No evidence was submitted at the hearing of the cause as to the amount of the above tonnage that moved over the rails of the carrier, and any conclusion as to the ultimate destination of the coal on the part of the Commission would be but a surmise and consequently of little value.

Involved in the case before the Commission are rates for transportation through valley territory, where the operating conditions are advantageous to the carrier, in that the line is standard gauge with practically no extreme grades or curves, and through mountainous territory, where the conditions are exactly the reverse, the line being narrow gauge with very severe grades and extreme curves, and a transfer from standard to narrow gauge cars being necessary. The lines from Glenwood Springs to Mack and from Grand Junction to Montrose are standard gauge and lie entirely in valley and comparatively level territory, and in no place does the grade exceed 1%, either ascending or descending as applicable to shipments moving from the Cameo-Palisade District or from the Bowie-Somerset District.

From the evidence in this case, and from rates established by the Commission and its predecessor, the State Railroad Commission, between other points, the Commission has drawn comparisons as applicable to the rates from Cameo and Palisade. Comparisons of rates must, to be of value in the establishment of reasonable rates, be for substantially the same kind of service. Section 2 of the Interstate Commerce Act, as amended, uses the term "contemporaneous service in the trans-

portation of a like kind of traffic under substantially similar circumstances and conditions". The term "kinds of service" involves not only methods of handling, such as the hauling of the commodity in the same kind of cars, with the same character of engines, and on the same kind of a track, but also involves character, location, general circumstances and conditions. The courts and the Interstate Commerce Commission have pointed out clearly many circumstances and conditions that may create a dissimilarity.

Exhibits were submitted in this case by the complainants, showing comparisons of the rates from Cameo and Palisade with the rates from other mines located on the lines of the defendant, and, as the defendant carrier furnished no exhibits, the Commission must be governed in arriving at the reasonableness of the rates in question by a comparison of the rates in effect over the carrier's lines from other mines and the complainants', as voluntarily established and maintained by the carrier, and also the rates as found reasonable by the Commission in other cases before it, holding in view, however, that the rates used for comparisons must be for transportation under substantially similar conditions.

"Transportation rates in force on lines of rival carriers or on different branches of lines of the same carrier have a bearing upon and are entitled to consideration in connection with the question of reasonable charges for transportation service rendered under like conditions." Morrell vs. U.P.Ry.Co., et al, 4 I.C.R.469; 6 I.C.C.R.121.

"Where the reasonableness of rates is in question, comparison may be made not only with rates on another line of the same carrier, but also with those on the lines of other and distinct carriers, - the value of the comparison being dependent in all cases upon the degree of similarity of circumstances and conditions attending the transportation for which the rates compared are charged." Freight Bureau of Cincinnati vs. C.N.O.& T.P.Ry.Co., et al, 4 I.C.R.592; 6 I.C.C.R.195 (234).

"Comparisons may be resorted to, of course, as evidence of unreasonable rates, but to be effective their elements must have, as a common basis, similarity of conditions." Commercial Club of Sioux Falls vs. Pullman Company, 31 I.C.C.R.654.

The Commission is convinced that the operating conditions on traffic moving from the Cameo and Palisade mines are practically similar to the conditions in connection with traffic moving from the Bowie and Somerset mines, and that the conditions are not greatly dissimilar on traffic moving into or over the mountainous district to those of traffic moving between other points on the lines of the defendant over mountainous territory. The traffic in most instances must move over the same lines, encountering the same grades and curves, and where the traffic does not move over the same rails it still must encounter relative extreme grades and curves and conditions that are very similar, and, therefore, the Commission has confined all of its comparisons to rates for similar kinds of service.

Palisade is located 12 miles, and Cameo 16 miles, from Grand Junction, to which point the present rate on lump coal is 60 cents per ton, and on slack coal 50 cents.

The rates to Grand Junction are local short haul rates and should be sufficiently high to include the terminal charges, which generally are as high for a short haul as for a long haul. Local shipments are more expensive to handle in proportion to the mileage than long distance shipments, as more expense is incurred to the carrier in handling a local shipment, due principally to terminal costs, and this fact therefore justifies a higher proportionate charge. This has been well exemplified in the case of Northern Pacific Ry. Co., v. Keyes, 91 Fed. 47. The court said:

"The operating expenses of a railroad consist of two principal items: (1) cost of maintenance of plant; (2) cost of conducting transportation. The former item is constant, and can justly be divided between the different kinds of traffic in proportion to their volume. As to the second item, however, such a division cannot properly be made; for it is agreed, by all who have had occasion to consider the subject, railroad commissioners as well as railroad officials, that the cost of conducting transportation is, relative to income, much higher for local business than for the general business of a road. The causes of this added cost are chiefly three: (1) the shortness of the haul; (2) the lightness of the train loads; (3) the expense of billing and handling the traffic."

In the case of Consumers' League of Colorado v. The Colorado & Southern Railway Company, et al., (Case No. 6) 1st Annual Report, page 163, this Commission established rates of 65, 60 and 55 cents per ton, for the transportation of lump, mine run and slack coal, respectively, from the Northern Colorado coal fields to Denver, to which point the average distance from all of the mines is 22 miles. These rates result in rates per ton per mile of 3.0 cents on lump coal, 2.7 cents on mine run coal and 2.5 cents on slack coal. In the case of Consumers' League of Colorado v. The Colorado & Southern Railway Company, et al., (Case No. 23), before the Railroad Commission of Colorado, decided by that body April 4, 1910, a rate of 50 cents per ton was established for the transportation of coal from Denver to Littleton. The distance involved was 10 miles, and the rate ordered by that Commission resulted in 5 cents per ton per mile. The Commission stated, (Biennial Report 1909-1910, page 76):

"We believe that there is nearly as much expense attached to this haul, though it be only ten miles, as is attached to the haul from Louisville to Denver, a distance of twenty miles. After a train is made up it requires but little more expense to haul it twenty miles than ten. We believe, also, that there should be some allowance made for switching and terminal expenses, and that a rate of 50 cents would be a fair rate to the shipper and a remunerative rate to the carrier."

The rate on lump coal to Grand Junction produces 4.3 cents per ton per mile. The density of traffic from the Northern Colorado coal fields to Denver is, of course, infinitely greater than that from Cameo and Palisade to Grand Junction. The average coal tonnage moving into Denver from the northern fields per year for the four year period ending 1913 was 662,549 tons. No figures were presented by the defendant carrier in this case to show the volume of traffic moving from the Cameo and Palisade mines; in fact, no exhibits whatsoever were submitted in this

case by the defendant carrier. All of the coal produced in the northern Colorado fields is lignite, while that produced in the Cameo and Palisade District is bituminous. The rates on bituminous coal may properly be somewhat higher than the rates on lignite, as lignite coal is an entirely different commodity from bituminous coal, and there are certain conditions surrounding its transportation which justify a difference in the rates. The North Dakota Board of Railroad Commissioners, in a very extensive investigation as to the reasonableness of lignite rates in the State of North Dakota, stated that

"lignite coal * * * * is a low grade product and has not more than about one half of the heat giving qualities of ordinary bituminous coal, and for that reason it should be transported under a materially lower basis of rates than bituminous coal". In re Lignite Coal Rates, P.U.R.1915 F 190 (211).

The Commission, taking into consideration the foregoing facts, is of the opinion that the rates on bituminous coal from Cameo and Palisade to Grand Junction are reasonable.

The rates to points west of Grand Junction are somewhat in excess of what the Commission believes to be reasonable rates. The rates to Durham and Ute produce a higher revenue per ton per mile than the rates to Grand Junction, which is contrary to the general principle of rate making, and the Commission is unable to find any circumstances to warrant such a condition. Much stress was laid by the complainants upon the fact that the defendant carrier carries a rate of \$1.00 per ton on lump coal from the Bowie mines to Grand Junction, a distance of 89 miles, and it was urged by the complainants that this rate must be assumed by the Commission to be a reasonable rate and a fair standard of comparison for the measure of other rates, inasmuch as it is a voluntary rate. The following was cited in support of their contention:

"The local rates voluntarily established by each of these carriers from the mines on their respective lines can fairly be taken as a measure of what they consider as reasonable, and if these rates should be prescribed for other hauls under substantially similar conditions, the carriers could not very well object to them." Sheridan Chamber of Commerce vs. C.B. & Q.R.R.Co., 26 I.C.C. 638 (647).

The Commission does not believe that the rate to Grand Junction from Bowie should be used as a standard upon which to base the rates from Cameo and Palisade. While this rate was established by the carrier voluntarily, it was in order to meet the competition at the point of destination, which condition does not exist at all of the points of destination involved in this case.

As stated in the brief of the defendant,

"The rate from Bowie to Grand Junction of \$1.00 was made to promote the movement of coal from the Bowie mines to Grand Junction, as against local production. There was coal available in Grand Junction from mines within wagon haul distance, and coal came to Grand Junction from Palisade and Cameo. A normal mileage rate from Bowie to Grand Junction would absolutely make it impossible to put Bowie coal into Grand Junction. \$1.00 was therefore charged. The local rate from Cameo and Palisade was 60¢. This adjustment gave the Cameo and Palisade producers an advantage over Bowie of 40¢ per ton. Conditions, however, were not equalized, but it was made possible to reach Grand Junction at not too great disadvantage. The condition at Delta was not comparable with the Grand Junction situation. The distance from the local producing mines is much farther, and there is no wagon haul competition to speak of. The rate from Bowie to Delta was \$1.00 as against the rate from Cameo and Palisade to Grand Junction of 60¢."

The defendant maintains that the use of a blanket rate for comparison with other rates is unreasonable, and objects to the selection of the extreme long haul element (Bowie to Grand Junction) in the blanket as a measure of mileage rates. However, as admitted by the defendant, to use even the shortest haul within the blanket rate as a measure would result in reducing the rate from Cameo to Delta from \$1.85 to \$1.60, which indicates that the present rates are unreasonable. The position of the defendant in this regard is evidently based on the assumption that the competition at Delta is not so great as

at Grand Junction, in that the local producing mines are farther away and "there is no wagon haul competition to speak of".

From the testimony in this case, the Commission is not convinced that the rate from Bowie to Delta is reasonable, nor that there is not the competition at Delta which exists at Grand Junction.

It has been before stated that the rate from Bowie to Grand Junction was put into effect in order to meet competition, and if the competition at Delta exists to any great extent, the converse should be true, and a rate be established from Cameo to Delta which will render a sufficient and just return to the carrier for the service involved, and which will enable the Cameo operators to meet such competition. The testimony of the general freight agent of the defendant carrier contradicts the contention of the carrier in its brief, in reference to the competition at Delta. The defendant, in its brief, has stated that there is no wagon haul competition at Delta to speak of, whereas, in the testimony of the general freight agent, we find the following:

"We have positive information that if we make a reduction in our rate from Bowie and Somerset to Delta, we would stop the wagon haul into Delta, which today supplies fully 75% of the coal consumed at that point. There are six or seven mines in a radius of ten miles from Delta, and the coal is hauled in by wagon on such a profit that we could stop the coal being hauled in there if we reduced our rate 25¢ a ton, making a rate of 75¢ for a distance of 33 miles; but we have not as yet seen fit to do so up to this time."

This would indicate, to a certain extent, that the rate from Bowie to Delta is per se unreasonable. To points south of Delta, the distance from the Cameo and Palisade mines is approximately 25 miles greater than from the Bowie and Somerset mines, the latter two mines being located on a branch, while the former are upon the main line of the defendant. The

differential of the Cameo mines over the Bowie mines ranges as high as 75¢ per ton, which the Commission believes to be quite unreasonable for the small difference in the service rendered.

From all of the facts laid before it, the Commission must come to the conclusion that there has been discrimination against the Cameo and Palisade operators, which it is the duty of this Commission to remove.

The line to points south of Montrose begins to ascend rapidly all the way to Ouray, and traffic moving over such line involves the transportation over a 2.2% adverse grade. A transfer from broad to narrow gauge cars is necessary at Montrose, and this condition exists upon coal moving from both the Cameo District and the Bowie District. To points east of Montrose the same condition exists, with somewhat increased gradient. Between Montrose and Salida the line crosses Cerro Summit, at an altitude of 7968 feet, making a climb of 2157 feet in seventeen miles, and must also cross Marshall Pass, at an altitude of 10856 feet. From Bowie to Salida the present rates are 240, 215 and 175 cents per ton on lump coal, nut coal and slack coal, respectively, the distance being 196 miles; while from Cameo and Palisade the rates are 250 cents on all classes of bituminous coal, the distance being 220 miles. The distance of 196 miles from Bowie to Salida is that via the narrow gauge lines, via which route the rate was originally published. Subsequent to the publication of the rate, however, and after the completion of the standard gauge line into Bowie, the coal moved over the standard gauge line all the way in order to save transferring the coal to narrow gauge cars at Montrose. The coal is therefore hauled from Bowie to Salida at the carrier's convenience, over 128 miles farther than the direct narrow gauge line, in order to save the transfer. It was stated, however, by the general freight

agent of the defendant carrier, that, if forced to do so by any reduction in rates to Salida, the coal would move as originally, or over the narrow gauge line.

While the line from Cameo to Salida is standard gauge, trains operating upon this line must negotiate adverse grades of 2.3%, encounter extreme curves and cross over Tennessee Pass, at an altitude of 10239 feet. The Commission has considered the rates to points of destination between Cameo and Salida, with a view to the effect any readjustment would have upon rates from the Newcastle District, which is located approximately sixty miles east of Cameo, and upon the rates in effect to points reached also by the Colorado Midland Railway, an intervenor in this case, whose rails also reach the mines of the complainants.

The Commission is of the opinion that the rates from Cameo and Palisade to Leadville and Salida and points intermediate therewith are reasonable, and so finds.

The operating conditions from the southern Colorado fields to points in the San Luis Valley are almost identical with the conditions surrounding the transportation of coal from Cameo and Palisade to Leadville and Salida. While the grades and curves encountered in crossing over La Veta Pass are slightly greater than those encountered over Tennessee Pass, this fact has been taken into consideration in comparing the rates with the rates into the San Luis Valley prescribed by the Commission. The rates to Leadville and Salida from points between will not, therefore, be disturbed by the Commission.

Going west from Leadville, the rates are, in the opinion of the Commission, somewhat in excess of reasonable rates for the service performed. These rates will be readjusted by the Commission at a basis which will be reasonable and not in excess of rates prescribed by the Commission in prior cases for similar traffic moving under substantially the same conditions.

The rate to Glenwood Springs of \$1.10 was published to meet the rate via the Colorado Midland Railway. A rate was prescribed by the Commission in Case No. 10, 1 Colo.P.U.C. of 60¢ per ton from the South Canon District to Glenwood Springs. The established differential for the Cameo District to Glenwood Springs had been 50¢, and the Colorado Midland Railway Company therefore reduced the then existing rate from Cameo to Glenwood Springs, or \$1.10, which was subsequently met by The Denver & Rio Grande Railroad Company. The distance to Glenwood Springs from Cameo is 75 miles, and the Commission is of the opinion that \$1.10 is a reasonable rate for the service involved, and therefore allows the same to remain undisturbed. This rate applies, however, as a blanket, to points located within thirty-one miles of the mines, Grand Valley being located thirty-one miles from Cameo and Palisade. The Commission, in this case, has found a rate of 85¢ to be reasonable for the transportation of lump coal from Cameo to Mack, a distance of thirty-four miles. The Commission does not believe that the rate should be any higher to Grand Valley and for the same distance in the opposite direction, where the operating conditions are not dissimilar, and a rate of 85¢ per ton on lump coal will therefore be prescribed by the Commission from Cameo and Palisade to Grand Valley. In like manner, the rate to De Beque, a distance of eighteen miles, of \$1.00 is also in excess of a reasonable rate, in the opinion of the Commission, and a rate of 75¢ will be prescribed. Slight modifications in the nut and slack rates to Rifle have also been made.

The complainants, in their brief filed in this case, are asking for a rate from Cameo and Palisade to Colorado Springs of \$2.00, and to Denver, \$2.10. The distance from Cameo to Colorado Springs is 362 miles, and to Denver 436 miles. If the rates prayed for by the complainants were established by this Commission, the revenues per ton mile resulting therefrom to the carrier would be 5.5 mills to Colorado Springs, and 4.8

mills to Denver. The complainants advanced the contention that the rate of \$1.75 from Cameo to Colorado Springs is a reasonable rate and should be used, to a certain extent, in comparing the rates from Cameo via The Denver & Rio Grande Railroad, while admitting that the rate might be a low rate in order to meet competition.

At the present time The Colorado Midland Railway Company carries a rate on lump coal from Cameo and Palisade to Colorado Springs of \$1.75 per ton, on slack coal \$1.40; and to Denver, on lump coal \$1.85, on slack coal \$1.50. The mines of the complainants are located upon the tracks of The Colorado Midland Railway Company, and shipments may be forwarded by this line to both Colorado Springs and Denver. The line of The Denver & Rio Grande Railroad is considerably longer than that of The Colorado Midland Railway to these points, and the Commission does not feel warranted in establishing these rates to Colorado Springs and Denver, but believes that the establishment thereof should be at the option of the carrier operating over the longer line.

A carrier may voluntarily establish a rate, due to competition, at a somewhat lower basis than a commission would be justified in prescribing. As stated in *Oregon & Washington Manufacturers' Association v. U.P.R.R.Co., et al*, 14 I.C.C.1 (14), the law permits the carriers to make competitive rates to a greater extent than it requires.

"In competition with others and in their desire for business, carriers may move a commodity as far as a remunerative rate will permit - that is, if the compensation is something above the actual cost of the service * * * *. Competitive rates made by the several carriers serving the different points of production may be lower than they could be compelled to make."

"Whether they (the carriers) will reduce their rates to competitive points or not is a question of business policy, which each carrier is free to determine for itself. Not infrequently it happens that a carrier would increase its rates in order to retire from traffic to competitive points, rather

than sacrifice much needed additional revenue on traffic to its intermediate stations. Shippers, therefore, must trust to economic pressure to secure for them low rates at competitive points."* Railroad Rate Regulation, Beale & Wyman, Second Edition, Section 802.

"As has so often been said, a carrier may, for competitive reasons, do things which it may not lawfully be compelled to do." Swift & Company v. C.& A.R.R.Co., 16 I.C.C.426 (428).

"A carrier may voluntarily make, under the force of controlling competition, rates which it might not be required to make." Indianapolis Freight Bureau vs. P.R.R.Co., 15 I.C.C.567 (576).

The Commission, therefore, does not feel justified in establishing rates to the above points.

The following table of average revenues in cents per ton per mile received on coal and upon all commodities by the defendant carrier during the years 1912, 1913 and 1914, upon Colorado business and upon the entire line, will be found instructive.

Year	COAL		ALL TONNAGE	
	Colorado	System	Colorado	System
1912	.01029	.01098	.01214	.01208
1913	.01047	.01085	.01200	.01193
1914	.01042	.01051	.01224	.01201

The rates from Bowie and Somerset are closely related to the rates from Cameo and Palisade, but as those rates are not before the Commission in this cause, no opinion can be rendered as to the reasonableness or unreasonableness of such rates. It will be noted, however, that the rates named by the order here are less to certain points of destination than the rates from Bowie and Somerset, although the distance is greater,

* - North Brothers v. C.,M.& St.P.Ry., 15 I.C.C.70; Darling & Co. v. B.& O.Ry., 15 I.C.C.79; Bainbridge Board of Trade v. L.H.& St.L.Ry., 15 I.C.C.586; Lindsay Brothers v.B.& O.S.W.Ry., 16 I.C.C. 6; Frederick & Kempe Co. v. N.Y.,N.H.& H.Ry., 18 I.C.C.481; Georgia-Carolina Brick Co.v.Sc.Ry., 20 I.C.C.148; Cohen & Co.v.Mallory Steamship Co., 23 I.C.C.374; Omaha Grain Exchange v. C.,M.& St.P.Ry., 24 I.C.C.122.

and will result in leaving a great many of the Bowie-Somerset rates out of line. While it is not within the province of this Commission to make the proper adjustment in this case, it is obvious that such a relation of rates can not be allowed. It is expected that the defendant will make a proper and reasonable adjustment of the rates from Bowie and Somerset. If it should not do so, however, a complaint may be brought before the Commission, or the Commission may institute an investigation on its own motion, as may be necessary.

An order will be entered in conformance with the above findings of the Commission.

O R D E R

IT IS ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby, notified and required to cease and desist, on or before August 15th, 1916, and thereafter to abstain, from publishing, demanding or collecting the rates for the transportation of bituminous coal in carloads from Cameo and Palisade in excess of those hereinafter prescribed for such transportation.

IT IS FURTHER ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, be, and it is hereby, notified and required to establish, on or before August 15th, 1916, upon notice to this Commission and to the general public by not less than ten days' filing and posting, in the manner prescribed in Section 16 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of bituminous coal in carloads from Cameo and Palisade rates in cents per ton of 2,000 pounds, which shall not exceed those named in the following table,

which said rates have been found to be reasonable and non-discriminatory.

<u>To</u>	<u>FROM CAMEO AND PALISADE</u>		
	<u>Other than nut and slack</u>	<u>Nut</u>	<u>Slack</u>
Salida	250	225	200
Buena Vista	250	225	200
Granite	250	225	200
Leadville	250	225	175
Red Cliff	225	200	175
Minturn	215	190	175
Wolcott	195	175	170
Eagle	180	170	160
Gypsum	170	160	150
Dotsero	160	155	150
Shoshone	150	150	150
Glenwood Springs	110	110	110
Carbondale	150	150	150
Aspen	175	175	150
New Castle	110	110	110
Silt	110	110	110
Antlers	110	110	110
Rifle	120	100	90
Grand Valley	85	80	75
De Beque	75	70	60
Grand Junction	60	60	50
Durham	65	65	55
Ute	75	70	60
Fruita	80	75	65
Loma	85	80	75
Mack	85	80	75
Whitewater	80	75	65
Delta	125	120	115
Olathe	140	135	130
Montrose	150	145	140
Cimarron	210	185	160
Sapinero	225	200	175
Gate View	245	225	190
Lake City	260	240	200
Uncompahgre	180	170	150
Dallas	210	180	150
Ridgway	210	180	150
Ouray	235	210	175

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

J. S. Kendall
Geo. T. Bradley
W. H. Smith
Commissioners

Dated at Denver, Colorado,
this 25th day of July, 1916

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CHARLES L. CARPENTER, et al,
Complainants,

-VS-

THE DENVER & NORTHWESTERN RAIL-
WAY COMPANY,

Defendant.

CASE NO. 52

Submitted March 23rd, 1916,

Decided July 29th, 1916.

ORDER OF DISMISSAL

On the 13th day of March, 1916, Charles L. Carpenter, and sixty-one others, patrons of The Denver & Northwestern Railway Company and The Denver City Tramway Company, filed with the Commission their written petition requesting the Commission to order the defendant railway company to erect a waiting room or shelter station at Juchez, a station on the line of the defendant railway company.

On the 14th day of March, 1916, the Commission directed its Inspector, Mr. R. D. Mauff, to investigate the matters complained of in the complaint of the complainants. A copy of the report of the Inspector of the Commission was filed with the defendant railway company, and

On the 23rd day of March, 1916, the defendant railway company filed with the Commission a "Satisfaction of Complaint"

answering the complaint of the complainants and alleging that plans for a shelter station were under consideration and were being prepared, and agreeing to construct a waiting room after first submitting to the Commission the architectural plans therefor.

On the 14th day of July, 1916, Howard S. Robertson, General Attorney for the Defendant Railway Company, filed with the Commission the following statement:

July 14, 1916
515

Mr. George F. Oxley,
Secretary, Public Utilities Commission,
Capitol Building, City.

Dear Sir:

The complaint in Case No. 52, Charles L. Carpenter et al. vs. The Denver and Northwestern Railway Company, for a shelter station at Juchem, has been satisfied by the installation of such a station in accordance with plans submitted to and approved by the Commission.

Yours respectfully,

(Signed) Howard S. Robertson.

IT IS THEREFORE ORDERED, That the complaint of the complainants be dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. H. G. [Signature]
Commissioners.

Dated at Denver, Colorado,
this 29th day of July, 1916.

ORIGINAL

MAKE NO COPY

BEFORE
THE PUBLIC UTILITIES COMMISSION
of the
STATE OF COLORADO

THE RAMONA TOWNSITE COMPANY, and
GEO.F.GEIGER, MARION NICKELL,
W.H.ABBEY, H.S.JORDAN, H.C.THOMPSON,
et al,

Complainants,

vs.

THE BOARD OF COMMISSIONERS OF COLORADO
SPRINGS and the CITY OF COLORADO
SPRINGS, EL PASO COUNTY, COLORADO,

Defendants.

CASE NO. 39

Submitted December 4, 1915

Decided August 4, 1916

O R D E R

On the 23d day of September, 1915, The Ramona Townsite Company filed with the Commission a written complaint directed against the Board of Commissioners of Colorado Springs and the City of Colorado Springs, El Paso County, Colorado, defendants.

On the 5th day of November, 1915, the complainants in the above cause filed with the Commission an amended complaint directed against the Municipality of Colorado Springs, alleging that the Municipality of Colorado Springs is engaged in the business of supplying and maintaining a water system for the purpose of supplying the residents of the Pikes Peak region with water for domestic use, and that the defendants, after accepting the

"usual water for several terms from a portion of said complainants and for a period of one term from others of the complainants hereto, did by force dig up and destroy some of the service pipes and absolutely refuse to furnish or supply any or all of the complainants hereto, water at any price; and did shut off and deprive said complainants of all water, and still

refuses to furnish water to said complainants, although said complainants have at numerous and various times, through their attorney, tendered the fee for such water service to said defendant's local water representatives, and at this time said complainants are unable to secure any water service of any description."

It is further alleged that the defendant municipality is furnishing water and collecting for the same from certain residents of the Town of Ramona, and that it refuses to furnish other residents of the Town of Ramona with water. The complainants then pray for an order of the Commission directing the defendants to furnish any and all of the residents of the Town of Ramona with water at reasonable rates.

On the 13th day of November, 1915, the City of Colorado Springs filed with the Commission its verified answer, setting forth in substance that the defendant is a municipal corporation organized under the laws of the State of Colorado, and exists under a special charter adopted in accordance with and pursuant to the provisions of the 20th Amendment of the Constitution of the State of Colorado; that the water works and water system referred to in the complaint of the complainants is the property of the City of Colorado Springs; that the ownership, management and control of said water works and water system is and at all times has been a local and municipal matter, and that whether or not water should be supplied to the complainants or any thereof is and at all such times has been a matter of local and municipal concern; and it is alleged that the Public Utilities Commission has no jurisdiction over the water works and water system of the City of Colorado Springs.

For a second and further defense to the complaint of the complainants, the defendant answers that it has never been engaged in the business of supplying and maintaining a water system for the purpose of supplying the residents of the Pike's Peak region with water for domestic or other use, but has supplied water outside the limits of Colorado Springs and Colorado City to a few consumers only as an accommodation to

them, and is maintaining its water works and water system, and acquired the same, for the purpose of supplying the needs of its own citizens and the citizens of Colorado City. That on the 3rd day of September, 1913, the City Council of the City of Colorado Springs adopted the following resolution:

"WHEREAS, an election has been recently held whereby it was voted to ask for articles of incorporation for the town of Ramona adjacent to the City of Colorado City, Colorado, and

"WHEREAS, it is a fact well known to every one in the Pike's Peak Region that incorporation of said town is for the purpose of selling intoxicating liquor, the City of Colorado City having at the last election held April 13, 1913, voted NOT to allow the sale of intoxicating liquors within its borders, and

"WHEREAS, the incorporation of such a town in this region would be a blight and disgrace to all the residents hereabouts, therefore

"BE IT RESOLVED, That the Superintendent of the Water Department of the City of Colorado Springs be instructed and hereby is instructed NOT to extend any water mains or grant or allow any more taps to any person within the so-called town of Ramona, further than those they at present possess for household purposes only."

That on the 20th day of November, 1913, the Water Department of the City of Colorado Springs delivered to all water consumers in the Town of Ramona a notice in words and figures as follows:

"You are notified not to allow any one to carry water from your premises. Read your license. This department is going to strictly enforce our ordinances, rules and regulations; also want to call your attention to the fact that we do not expect to be able to supply your city with water after the first of year. Wish that you would make arrangements to buy water elsewhere after January 1st, 1914, as we do not expect to be able to furnish service to your city."

That upon March 2nd, 1914, the City Council of the City of Colorado Springs adopted a resolution in words and figures as follows:

"WHEREAS, application for permit to use water has been made to the Department of Water and Water Works by certain persons engaged in the business of conducting saloons, for the sale of intoxicating liquors, in the town of Ramona, Colorado, and

"WHEREAS, The Council finds that the town of Ramona is so situated in relation to Colorado Springs that the running of saloons in said town and the unrestricted sale of intoxicating liquors therein will increase the cost of police supervision in Colorado Springs in order to maintain

peace and order and enforce the ordinances of the city against drunkenness and disorderly conduct, and,

"WHEREAS, The Council is of the opinion that the furnishing of water by the City of Colorado Springs to said saloons would be of financial and moral disadvantage to the City, Therefore, be it

"RESOLVED by the City Council of the City of Colorado Springs -

"That the Department of Water and Water Works and the respective officers and employes thereof, be and they are hereby ordered and directed to grant no permits and to furnish no water from the water system of the city to any person, firm, association or corporation in the town of Ramona, Colorado, for use in any place of business occupied or used as a saloon for the sale of intoxicating liquors in said town, and said officers and employes of the Water Department are hereby authorized to do whatever is necessary to carry out this resolution.

"RESOLVED, That no person, firm, association or corporation in the Town of Ramona, Colorado, who is being furnished water from the Colorado Springs water system shall permit or allow any water to be taken, carried or delivered from his or its premises to any place occupied or used as a saloon in said town, and the officers and employes of said Water Department are hereby ordered and instructed to immediately shut the water off from the premises of any person, firm, association or corporation furnishing or supplying, or permitting the supplying of water to saloons contrary to this resolution."

That upon the 4th day of February, 1914, the water was turned off from consumers in the town of Ramona using the same for saloon purposes and that certain consumers or someone acting for them, without authority from the defendant, unlawfully turned on said water, and that upon February 5, 1914, it was turned off by employes of the defendant by digging up the corporation's mains and disconnecting the leads, and that the defendant has not shut off or deprived any consumer of water in the Town of Ramona excepting such consumers as were using water for saloon purposes.

The answer of the municipality prays for an order of the Commission dismissing the complaint of the complainants.

The above cause was heard by the Commission at Colorado Springs on the 29th day of November, 1915, and on the 4th day of December, 1915, briefs were submitted to the Commission. Two questions have been presented to the Commission for determination. First: Has the Public Utilities Commission of the State of

Colorado jurisdiction over municipally owned plants in municipalities governed by a charter as provided by Section 6 of Article 20 of the Colorado Constitution, and commonly known as "Home Rule Cities"? Second: If the Commission has jurisdiction, has it the power and authority to require a municipally owned water plant owned and operated by a municipality governed by a charter in accordance with Section 6 of Article 20 of the Colorado Constitution to furnish water at a reasonable charge to all persons residing in another municipality, namely, Ramona, Colorado, in the event the municipally owned plant furnishes water to a portion of the citizens residing in the municipality of Ramona?

On the 1st day of January, 1916, the State of Colorado, in accordance with provisions of a Constitutional Amendment, became a Prohibition State, and all of the saloons within the Municipality of Ramona were closed in accordance with the law.

Section 3 of the Colorado Laws pertaining to Public Utilities reads as follows:

"Section 3. The term 'public utility', when used in this act, includes every common carrier, pipe line corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, person or municipality operating for the purpose of supplying the public for domestic, mechanical or public uses, and every corporation, or person now or hereafter declared by law to be affected with a public interest, and each thereof, is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and to the provisions of this act; Provided, that nothing in this act shall be construed to apply to irrigation systems, the chief or principal business of which is to supply water for the purpose of irrigation."

Other sections of the Colorado law pertaining to Public Utilities provides that all charges made by any public utility shall be reasonable, and all unjust and unreasonable charges are prohibited and declared unlawful; and every public utility shall furnish, provide and maintain such service instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and shall in all respects be adequate, sufficient, just and reasonable; and that no public utility shall as to rates, charges,

service, facilities or in any other respect make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. The Commission may, after a hearing had upon its own motion or upon complaint, determine just, reasonable or sufficient rates, fares, tolls, rentals, charges, rules, regulations, practices or contracts, and the Commission may upon its own motion or upon complaint investigate rates, regulations, contracts or practices of any public utility, and if the same be found to be unreasonable, new rates, fares, tolls, rentals, charges, classifications, rules, regulations, contracts or practices may be established by the Commission.

The Commission is of the opinion that it has jurisdiction over municipally-owned utilities, owned and operated by Home Rule Cities, but as to whether the Commission should require a municipally-owned public utility to extend its service to all prospective consumers residing in another municipality in the event the municipally-owned utility chooses to serve one or more consumers in said municipality is a question which the Commission is not now called upon to decide. No saloons exist within the Municipality of Ramona at this time, and therefore the ordinances passed by the Commissioners of the City of Colorado Springs and the subsequent action of the City Commissioners of Colorado Springs and the City Water Superintendent do not injuriously affect the petitioners. The Commission has also been notified by the Water Superintendent of Colorado Springs that all residents of Ramona who desire water at reasonable charges have been provided with the same by the Municipality of Colorado Springs.

IT IS THEREFORE ORDERED, That the complaint of the

complainants be dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Keadue

Geo T. Bradley

M Hayhurst

Commissioners.

Dated at Denver, Colorado,
this 4th day of August, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In re: Petition of The Colorado
Springs Light, Heat & Power Company
for an increase in its rates and
charges for gas service.

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Case No.54.

The City of Colorado Springs,
Intervenor.

Appearances:

For The Colorado Springs Light, Heat & Power Company,
Rush L.Holland, Esq.,

For the City of Colorado Springs, Intervenor,
J.L.Bennett, Esq., City Attorney.

Submitted June 2,1916.

Decided August 7,1916.

O R D E R.

On the 15th day of December, 1915, the Commission decided Case No.24, and on the 1st day of March, 1916, denied the petition for rehearing of said cause by The Colorado Springs Light, Heat & Power Company. That case was an investigation, upon the motion of the Commission, into the reasonableness of each and every rate or charge and into the adequacy of the service, rules, regulations and practices of The Colorado Springs Light, Heat & Power Company. In the decision in that cause, rendered on the 15th day of December, 1915, the Commission found that The Colorado Springs Light, Heat & Power Company, a public utility engaged in the sale of electricity for lighting, heating and power purposes, and in the sale of gas for lighting and heating, and of steam for heating purposes, was the owner of three properties of the following present fair value for rate making purposes, viz; electrical property, \$1,481,762.00;

gas property, \$710,917.00; steam property, \$122,774.00. The Commission found, by averaging the net earnings of the electrical department of The Colorado Springs Light, Heat & Power Company for a period of four years, 1911, 1912, 1913 and 1914, that the average annual net earnings of the electric property were \$233,875.00, and deducting therefrom the sum of \$52,000.00 as the annual depreciation reserve upon the electrical property, as approved by the Commission, found the annual average net return of the electrical property, less depreciation, to be \$181,875.00. The Commission thereupon, being of the opinion that the average annual net return earned by the electrical properties of the Defendant corporation, which was in excess of twelve per cent upon the present fair value of the electrical properties, was excessive, reduced the rates and charges of the electrical department so that the rate of return earned would be slightly in excess of seven and one half per cent.

The schedules of the corporation pertaining to charges for electricity were so faulty and so discriminatory that the re-adjusted rates and charges for electric energy, as found to be reasonable by this Commission, were ordered into effect for a period of one year ending March 1, 1917, at which time the Commission will receive reports from its experts upon the revenues earned by the corporation under the new schedule of rates and charges, that it may be determined whether a further readjustment of the corporation's charges for electric energy shall be made by the Commission.

By averaging the net earnings of the gas department for the years 1911, 1912, 1913 and 1914, the Commission found that the average net return was \$28,239.90, and, after deducting the sum of \$20,000.00 as the fair amount to be laid aside for the annual depreciation reserve upon the gas property, found the average net return, less depreciation, to be \$8,239.90, or an average

annual earning of 1.16 per cent upon the fair and reasonable value of its gas property.

The Commission also stated in its opinion that,

"the laws of Colorado pertaining to public utilities and the regulation thereof by the Public Utilities Commission of the State of Colorado, enumerate by name all the public utilities which shall be under the jurisdiction of this Commission, and we have come to the conclusion that we are without jurisdiction in the regulation of the sale of steam."

As no request was made by the Defendant corporation for an increase in its rates and charges for gas, the Commission saw no reason for readjusting those rates.

In the Commission's decision in Case No.24, the following statement was made:-

"The Commission has devoted much time to the question of fair and reasonable rates and charges for gas to be sold by the Defendant corporation to consumers in Colorado Springs and Colorado City. It found the present fair value of the gas property of The Colorado Springs Light, Heat & Power Company to be \$710,917.00, with an average annual return, less depreciation, of \$8,239.09, which results in a 1.16 per cent rate of return per annum on the fair and reasonable value of this gas property.

"The present schedule of rates and charges for the sale of gas by the Defendant corporation shows that this defendant is receiving \$1.00 per 1,000 cubic feet of gas, net, with a minimum guarantee of fifty cents per meter per month, which appears to be not unduly high, and, in fact, a fair average rate for gas sold by other utilities in cities somewhat similar to Colorado Springs in size and location. After a thorough investigation the Commission has been forced to come to the conclusion that the Defendant company manufactures gas at about the average cost, and has been unable to arrive at a satisfactory conclusion for the low return on the present fair value of the gas properties of the Defendant company. It is ascertainable from the evidence that the representatives of the Defendant corporation were aware at the beginning of this hearing that the gas property of The Colorado Springs Light, Heat & Power Company was not earning a reasonable return upon the present fair value of the property, and with this knowledge the representatives of the Defendant company did not request, or even intimate, that the Commission should permit the Defendant corporation to increase the rates and charges as shown in the present schedule of the corporation. In the event we should permit an increase in the charges and rates for gas sold by the Defendant corporation it would be solely for the purpose of increasing the revenues of this Company, and we are not at all convinced that these revenues would be increased by an increase in the rates and charges, but, on the other hand, are of the opinion that an increase in the rates and charges

would result in decreased earnings. While the public utility is entitled to earn a reasonable return upon the present fair value of these properties, the consuming public is required to pay only the reasonable value for the service or commodity furnished. We shall entertain a complaint from the corporation in the form of a request for an increase, in its rates and charges covering the sale of gas, accompanied by evidence sufficient to justify this Commission in ordering an increase in such rates and charges."

On the 31st day of January, 1916, the Colorado Springs Light, Heat & Power Company filed with the Commission its petition for a rehearing in Case No.24 and on the 1st day of March, 1916, the Commission denied the application. One of the grounds for a re-hearing of the cause, as alleged in the petition by The Colorado Springs Light, Heat & Power Company, was an alleged error of the Commission in segregating the various properties of the public utility for the purpose of rate making. Denying the application for a re-hearing the Commission stated:

"In its application for a re-hearing of this cause the Respondent contends that its hydro and electric properties, gas properties, and steam properties, should not be segregated for rate-making purposes, but this Commission is of the opinion that unless the gas property of the Respondent is segregated from the hydro and electric properties the patrons of the hydro and electric properties naturally will be compelled to maintain the gas plant of the Respondent, an arrangement for which there is no apparent authority in law.

The gas property of this Respondent is physically separate and distinct from the Company's hydro and electric properties, and this Commission is unable to find authority for the proposition that, for rate making purposes, gas and electric properties owned by one company should be valued as one property and the rate of return based upon the earnings of the entire property. In fact, counsel for Respondent frankly admits that this theory is without precedent."

The rule as announced by this Commission has been announced by commissions throughout the country and is clearly stated in a case entitled:

"In the matter of complaints as to rates charged for gas, electric and street railway service in the City of Jacksonville, County of Morgan, State of Illinois",

before the State Public Utilities Commission of Illinois, decided July 11, 1916:-

"That, for the purpose of rate making, each of the respondent's departments shall stand by itself in so far as the respective revenues earned by each of the various departments are sufficient (or insufficient) to meet the operating expenses and proper fixed charges of each of the said departments; that an insufficient revenue from one department should not be compensated and equalized by the more adequate revenue of another department; that no part of the property of the electric department should be assigned to the street railway department; and that proper and reasonable charges should be assessed by the electric department against the street railway department for all electrical energy furnished by the former and consumed by the latter."

And,

"In a case such as the one at bar, where two or more services are furnished under one general management, questions of the allocation of property and operating expenses frequently arise. Equity does not demand that the consumers of one service should be called upon to bolster up the revenues obtained from the users of another class of service. It is axiomatic that, in all fairness, a person should pay for only what he receives, and a user of water, for example, should no more be called upon to help in the upkeep of an electric light plant owned by the same company, than he should be expected to contribute to the revenue of an independently owned electric company whose product he does not use. To hold otherwise would be to countenance one form of unfair discrimination. The principle applies to the distribution of property between the several departments of a combined utility. Since each service must stand upon its own feet, it must be permitted to earn a return upon all property that properly belongs to it. To assign the property of one department arbitrarily to the service of another might result in grave injustice, inasmuch as the department from which the property is subtracted may thereby be deprived of a return thereon, a result that is clearly confiscation.

"Doubtless, economies may be effected through the combined operation of several plants; but are not the consumers entitled to participate in the resulting benefits? This Commission has before it the determination of rates for property operated under a stated form of management which has been in effect for many years previous to this proceeding, and it is not reasonable to suppose that a rate should be predicated upon a different basis of management merely because such method of operation may be possible. To predicate a finding upon conditions which may be imagined to exist instead of those which are in actual operation is to enter the realms of conjecture, a basis affording no footing upon which to raise a rate structure. Also, so far as the general principle is involved, it would seem an unsound doctrine that the revenues from one class of consumers should be used to increase the earnings of another utility, thus exacting tribute from one class of consumers for the benefit of another. A utility, inherently, should not be the instrument whereby a fee is exacted for services that have not been rendered."

On the 10th day of April, 1916, the Commission received a petition from The Colorado Springs Light, Heat & Power Company praying for an increase in its rates and charges for gas, and alleging in substance that the company is entitled to earn a fair, just and reasonable return on the fair value of its gas properties, as found by the Commission, and that a return thereon of 1.16 per cent is not fair, just and reasonable. And the corporation further alleges that:

"Since the hearing in Case No.24 the company has contracted for and is now installing larger mains and other equipment which will improve service conditions in certain parts of the city and which improvements when completed, which will be at an early date, will add approximately \$20,000.00 to the company's gas plant and equipment accounts."

It is then prayed that the Commission increase the company's rates and charges covering the sale of gas to the end that fair, just and reasonable rates and charges may be established therefor and that the company thereby be permitted to earn a fair return on its said investment in its gas properties.

The Commission convened the hearing in the above cause at the City council chamber in the City Hall in the City of Colorado Springs, Colorado, at 10:00 o'clock a.m., Friday, June 2nd, 1916, and after receiving the testimony from the petitioning corporation and the various objectors to the increase of rates applied for, the hearing was adjourned until the 8th day of July, 1916, at 10:00 o'clock a.m., in the City Council Chamber of the City of Colorado Springs, Colorado, at which time and place the Commission's witnesses testified.

From the testimony introduced at the hearings in this cause it becomes apparent to the Commission that the service of the petitioning corporation during peak-load periods (July, August and September) has been defective. This defect was admitted by the witnesses for the petitioning corporation, but it was contended that newly installed boosters and booster mains now give

adequate service to the consumers in Colorado Springs during peak-load periods. It was contended by the petitioning corporation's witnesses that, while the Commission would not be justified in permitting an increase of rates and charges sufficient to result in a fair rate of return upon present fair value of the corporation's gas properties, a moderate increase of rates and charges is justified and the following schedule was requested:

RATE:

First 5 M.cu.ft.each month, @ \$1.25 Net or \$1.35 gross.
Next 15 M.cu.ft.each month, @ \$1.00 Net per M.
Next 30 M.cu.ft.each month, @ .90 Net per M.
Next 50 M.cu.ft.each month, @ .80 Net per M.
All in excess of
100 M.cu.ft.each month, @ .75 Net per M.

MINIMUM:

Monthly guarantee 50¢ net, or 60¢ gross, per meter installed.

DISCOUNT:

Bills to be rendered at the gross rate for the first 5 M.cu.ft. or for the minimum and discounted to net rate if paid within discount period indicated on bill.

Witnesses for the Commission testified that the corporation is improving its service by the installation of boosters and booster mains and that the cost of the manufacture of gas by the petitioning corporation is not excessive, but that peculiar conditions surrounding the manufacture and sale of gas in Colorado Springs, due to the city's wide streets and its unusually large population during peak-load months, has resulted in a very heavy investment in gas properties of the corporation, and while the consumers served use the average amount of gas per meter, the number of consumers within the City of Colorado Springs is far below the average of cities of the same size in various parts of the United States. The evidence developed the fact that the company had used great efforts in increasing the consumption of gas in the City of Colorado Springs, and intends to continue to employ a force of gas salesmen to market the product of the gas department of the petitioning corporation. From a special report to the Commission made by the Commission statistician, it appears that the income of the gas department of the petitioning corporation

from January 1st to July 1st for the year 1916, has increased about \$1800.00 over a similar period in the year 1915, and that the expenses of the gas department have been somewhat reduced.

While it is true that a public utility is entitled to earn a fair rate of return upon the present fair value of its property in use and useful, yet there must be no charge for service which exceeds the value of the service rendered. It is the contention of the public utility in this case that the Commission should increase its rates and charges for gas from \$1.10 gross - \$1.00 net, per thousand feet, to \$1.35 gross - \$1.25 net, per thousand feet, for the first 5 M.cu.ft. each month. The Commission is of the opinion that the proposed schedule will result in rates and charges exceeding the value of the service rendered, but the evidence introduced seems to justify an increase in rates and charges which will not exceed the value of the service rendered. The best way to determine the value of the service or the product sold is to closely watch the development of the business of the public utility, as well as the effect of the increased rate. This rule as announced by the Commission in Case No. 24, that a consumer of electricity should not maintain the gas department of a public utility, certainly is correct. Prior to the decision of the Commission in Case No. 24, electric consumers within the City of Colorado Springs were paying excessive rates to maintain the steam and gas properties of the petitioning corporation.

That method of charging was without justification. The Commission reduced the rates for electricity charged by the petitioning corporation and placed in effect a temporary schedule of rates and charges, effective until March 1, 1917, at which time the Commission will examine the reports presented to it by its Chief Engineer and Chief Statistician from time to time to determine whether the electric rates and charges of the petitioning corporation should be further reduced.

While the Commission realizes that the gas service of this public utility has been defective in the past, the company has demonstrated its willingness to overcome this defect, and has already spent thousands of dollars in the attempt to improve its service. Each of the pressure tests made by the Commission's Engineer in the various districts convinces the Commission that the pressure is vastly improved over that shown in preceding years, and the heat-unit tests compare favorably with the requirements of Commissions throughout the country and meet the requirements which will soon become a part of the Commission's rules pertaining to gas service. The Engineer and the Statistician will report to the Commission from time to time to the end that the service of the gas department of the petitioning corporation shall be adequate.

The Commission is of the opinion that the petitioning corporation should be permitted to increase its rates and charges for gas by charging its present gross rate of \$1.10 per thousand cubic feet as a net rate and \$1.15 per thousand cubic feet as the gross rate for the first 5 M.cubic feet of gas. In all other respects the application of the petitioning corporation will be granted as no increase will result in the proposed schedule over the rates charged at this time. The small increase in charges should not be burdensome to the small consumer and will permit the corporation to increase its revenues slightly; but it will not earn a fair rate of return on the present fair value of the gas properties of the petitioning corporation as found by this Commission.

One test as to the reasonableness of a rate is the proper development of the property of the public utility carrying the rate or charge. It will be the purpose of the Commission to obtain reports from the books of the public utility in order that the revenues and the development of the gas department of this corporation may be kept under the close scrutiny of the Commission for the benefit of the consuming public and the stockholders of the utility.

The Commission is of the opinion that in the event permission should be given to the petitioning corporation to make a schedule of rates and charges which would bring about a fair rate of return upon the present fair value of the gas properties, such schedule would result in a charge exceeding the value of the service rendered and would result in decreased revenues through consequent loss of patronage.

IT IS THEREFORE ORDERED, That The Colorado Springs Light, Heat & Power Company be permitted to charge the following schedule of rates and charges for the sale of gas:-

RATE:

First 5 M.cu.ft.each month, @ \$1.10 net or \$1.15 gross.
Next 15 M.cu.ft.each month, @ \$1.00 Net per M.
Next 30 M.cu.ft.each month, @ .90 Net per M.
Next 50 M.cu.ft.each month, @ .80 Net per M.
All in excess of
100 M.cu.ft.each month, @ .75 Net per M.

MINIMUM:

Monthly guarantee 50¢ net, or 60¢ gross, per meter installed.

DISCOUNT:

Bills to be rendered at the gross rate for the first 5 M.cu.ft. or for the minimum and discounted to net rate if paid within discount period indicated on bill.

IT IS FURTHER ORDERED, That this schedule of rates and charges may be charged and collected by the petitioning corporation for the gas service furnished to consumers during the month of August, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
Geo. T. Bradley
M. H. Brown
Commissioners.

Dated at Denver, Colorado,
this 7th day of August, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

APR 9 1915

THE CASTLE ROCK MOUNTAIN RAILWAY AND
PARK, (a Scenic Incline Railroad owned
and operated by Charles F. Quaintance)
in its own behalf and in behalf of all
other scenic trips out of Denver and
all others similarly situated,

Petitioner,

vs.

THE DENVER TRAMWAY COMPANY, a corporation,
THE SEEING DENVER COMPANY, a corporation,
THE DENVER OMNIBUS & CAB COMPANY, a corporation,
THE DENVER UNION TERMINAL RAILWAY COMPANY, a
corporation,

Defendants.

Case
No. 29.

Submitted July 30, 1915.

Decided Aug. 9th, 1915.

Appearances:

Messrs. Gerald Hughes and Howard Robertson,
for The Denver Tramway Company, defendant,
Messrs. C. C. Dorsey and E. I. Thayer,
for The Denver Union Terminal Ry. Company, defendant,
Mr. J. N. Kuykendall,
for The Denver Omnibus & Cab Company, defendant,
Mr. Robert E. Harvey, for The Seeing Denver Company, defendant,
Mr. Charles F. Quaintance, for Petitioner.

O R D E R

On the 15th day of July, 1915, the Petitioner filed
with this Commission a petition entitled "Petition in re unfair
competition and illegal combination or confederacy in restraint
of trade", the said petition being directed against the defend-
ant public utilities, to-wit; The Denver Tramway Company, The
Seeing Denver Company, The Denver Omnibus & Cab Company, and
The Denver Union Terminal Railway Company.

The Petitioner alleges that it is a scenic incline
railroad company, owned and operated by Charles F. Quaintance,
and petitions in its behalf, and on behalf of "thirty-six

scenic trips out of Denver", and alleges"that the defendants, and each and all of them have formed and are a part of an illegal combination or confederacy in restraint of trade and fair competition for the purpose of controlling the tourist business, to the end that no scenic trips, except those operated by defendant, The Seeing Denver Company, shall be taken by tourists".

The Petitioner further complains that the defendant, The Denver Omnibus & Cab Company, has been granted the exclusive privilege of soliciting business from incoming passengers at the Union Depot, the property of The Denver Union Terminal Railway Company, one of the defendants.

The Petitioner further alleges that The Denver Omnibus & Cab Company owns and controls a large amount of the capital stock of the defendant, The Seeing Denver Company, and grants to the said The Seeing Denver Company privileges not open to this complainant and to which said complainant is entitled; and that the defendant, The Denver Tramway Company, permits the Seeing Denver Company to use the tracks of the defendant, The Denver Tramway Company, exclusively, and maintains a discriminatory rate for special cars for the benefit of The Seeing Denver Company; the said rate not being open to this Petitioner, or others similarly situated; and the petitioner prays that this Commission afford a remedy as against the alleged illegal combination in restraint of trade, and that the plaintiff be given the same rights, rates, service, equipment, and privileges by the defendant, The Denver Tramway Company, The Denver Omnibus & Cab Company, and The Denver Union Terminal Railway Company, as are now open to the defendant The Seeing Denver Company.

On July 25th, 1915, the defendants filed petitions with this Commission for leave to demur to the complaint of the petitioner, and this privilege was granted by the Commission;

whereupon, on July 28th, 1915, the defendants demurred to the petition of the petitioner, alleging that this Commission had no jurisdiction as to the subject matter of this action.

On the 30th day of July, 1915, the Commission heard arguments, in support of and against the demurrers filed to the petition of the petitioner.

The petitioner, in its objection to the exclusive right to solicit incoming passengers, granted by The Denver Union Terminal Railway Company to The Denver Omnibus & Cab Company, does not complain as to the adequacy of the service of The Denver Omnibus & Cab Company, nor does the petitioner seek for itself an equal right to solicit passengers at the station of the Union Terminal Railway Company, so that it is unnecessary for us, at this time, to pass on the question as to whether it is within the jurisdiction of this Commission to order The Denver Union Terminal Railway Company to permit other persons and corporations the privilege of soliciting passengers at the station of The Denver Union Terminal Railway Company.

The complaint of petitioner complains of an illegal combination in restraint of trade. The Public Utilities Commission is not a court, but is a creature of the Legislature, with defined powers, and our jurisdiction does not extend to complaints against illegal combinations in restraint of trade. The doors of the Courts of the State of Colorado are open to the plaintiff in the event it has a cause of action in this regard.

The Commission, having carefully considered the petition of the petitioner and the demurrers filed by the several defendants, now orders:

First, - That the petition of the petitioner be dismissed as to The Denver Union Terminal Railway Company, The Denver Omnibus & Cab Company, and The Seeing Denver Company, defendants.

Second, - That the petitioner amend its complaint within five (5) days from the date of this order, and base its cause of action solely on the alleged discrimination in the rates, practices and service of the defendant, The Denver Tramway Company, in favor of the defendant, The Seeing Denver Company, and that the demurrers of the defendants directed against all other matters contained in the petition of the petitioner be sustained.

IT IS FURTHER ORDERED, that the defendant, The Denver Tramway Company, answer the amended petition of the petitioner within five (5) days after the same is filed with this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. S. Kendall
Geo. D. Bradley
M. W. Ashurst
Commissioners.

Dated at Denver, Colorado,
this 19th day of August, 1915.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE STRONTIA SPRINGS SANATARIUM
COMPANY, a Domestic corporation,

Petitioner,

vs.

THE COLORADO & SOUTHERN RAILWAY
COMPANY, a corporation,

Respondent.

Case No.78.

Submitted July 14, 1916.

Decided August 10, 1916.

Appearances:

Edwin N. Burdick, Esq., and Mr. W. G. Thompson,
for the Petitioner,

Messrs. E. E. Whitted and A. S. Brooks, and Mr. George Williams,
for the Respondent.

STATEMENT AND ORDER.

On the 7th day of June, 1916, the Petitioner filed with
the Commission its verified petition alleging that,

"it is the owner of a summer resort, named "Strontia Springs" and located at the mouth of Bear Gulch Canon, about 26.8 miles from the City of Denver on the railway line of the Respondent, and that for a long time past the Respondent has discriminated in and about and against the Petitioner by refusing to sell one way or round trip tickets, ten day tickets, commutation tickets, excursion rate tickets, or, to deliver freight to said resort or place, and has refused to permit passengers to get off the train at the resort, or, to get aboard at said resort in either direction, or to list or schedule said resort as one of the stopping places, or to stop trains at said resort, and has refused to sell tickets at any time except during certain seasons of the year known as the fishing season, and this year has refused to sell any tickets or to place said resort upon its list of stations, or to establish rates and has without right so to do annulled the rates heretofore existing so far as the same were granted.

That because of the wrongful conduct of the Respondent herein the property and property rights of the petitioner herein has been greatly damaged and impaired and the use and value thereof has been destroyed.

That while the petitioner, through its proper officers, has made application to the Respondent and requested it to grant equitable and just arrangements in accordance with the customary usage in relation to distances and in compliance with the regulations for roads for transportation and freight, in accordance with the mileage that said resort is, as compared with other resorts and places along said route for both one way return trip, fishing excursion, commutation and general excursion rates and all of which said applications were denied and refused."

The Petitioner then prays that the Commission order the said Respondent company to establish a regular tariff rate, according to distance and mileage, from the City of Denver to said resort, and from said resort to Denver, on the same basis as other distances and places along said route are permitted and allowed, and that the Respondent be ordered not to discriminate against the Petitioner, and be compelled to sell tickets of all grades and kinds, and to accept and transport and discharge patrons, passengers, freight and express as applies to any other station along said route, in accordance with the distance and under the same rules applicable to any other resort on said route.

On the 17th day of June, 1916, the Respondent filed with the Commission its answer denying generally the allegations contained in the petition of the Petitioner.

Hearing of this cause was convened at the hearing room of the Commission in the City and County of Denver, State of Colorado, at the hour of 10:00 o'clock a.m., on the 14th day of July, 1916.

It appears from the testimony and the evidence introduced at the hearing that the petitioning corporation is the owner of a summer resort known as "Strontia Springs", located 26.8 miles from the City of Denver, at the mouth of Bear Gulch Canon on the railway line of the Respondent's railroad, and that it is the contention of the Petitioner that the Respondent Railroad Company has discriminated against the said resort by refusing to sell tickets to and from Strontia Springs and by refusing to allow passengers to board or to alight from the trains of the Respondent company at said resort, and

that the fares and charges of the said railroad for passengers and freight carried to and from Strontia Springs are unreasonable and unjust, and that the said Railroad company discriminates in favor of other resorts in its line of railway to the detriment of the Petitioner.

There is no evidence before the Commission that the Railroad Company has refused to carry freight or express to and from the resort of the Petitioner. There is some evidence to the effect that representatives of the Railroad company and of the Petitioner have been quarreling for some years over alleged discriminatory charges and conduct of the Respondent company to and toward the petitioner and its patrons.

On the 8th day of May, 1916, the Commission decided Case No.11, in re. Passenger Rates and Rules, 1 Colo.P.U.C.35, providing for maximum rates to be charged for passenger service upon all railroads in the State of Colorado. After carefully examining the record in this cause the Commission is of the opinion that the Respondent charges no rate to or from Strontia Springs which exceeds the rates provided for by the Commission.

There is some evidence to the effect that attempts have been made in the past to purchase passenger tickets to Strontia Springs - a flag stop - and that agents of the Respondent carrier have stated that no passenger rate had been made to Strontia Springs by the Respondent carrier; and while the Respondent company admits that Strontia Springs is not shown as a station upon some of the company's literature it is stated that this was at the express request of representatives of the Strontia Springs resort, and that through error Strontia Springs was omitted from the summer tariff of the Respondent company.

It is also contended by the Petitioner that the Railroad Company has filed with the Commission a special-train excursion fare of 75 cents from Denver to South Platte and Dome Rock, when 100 passengers are guaranteed, said stations being two and five miles,

respectively, farther distant from Denver than the resort of Strontia Springs, and that the said Respondent refuses to publish an excursion fare rate to Strontia Springs.

The Petitioner prays that the Commission order the Respondent company to file with the Commission a special-train excursion rate from Denver to Strontia Springs which shall be less than that charged from Denver to Dome Rock.

It is admitted that the Respondent company operates the resort at Dome Rock, and it is contended by the Petitioner that the Respondent company for that reason discriminates against Strontia Springs.

It also is contended by the Petitioner that the Commission should order the Respondent company to sell commutation books from Denver to Strontia Springs and return throughout the year, whereas the said commutation books are now sold for only a six months period, covering the summer season.

The witnesses for the Petitioner admit that subsequent to the filing of the complaint by the Petitioner with the Public Utilities Commission of the State of Colorado passengers were permitted to alight from and board the trains of the Respondent carrier at Strontia Springs, and that the Respondent carrier sold passenger tickets to and from Strontia Springs from other points on its line of railway.

It is not contended by the Petitioner that the rates and charges to and from Strontia Springs made by the Respondent company are excessive, but that they are discriminatory against Strontia Springs in favor of other resorts located on the railway lines of the Respondent company.

The Commission is of the opinion that no discrimination exists as to rates and charges for passenger fares.

While it is contended by the Petitioner that a differential should be made between Strontia Springs and Dome Rock for special-train excursion fares and commutation books, because of the difference

in distance of five miles, it is the opinion of the Commission that the Petitioner has no grounds for complaint in this regard. Witness Tjompson, representing the Petitioner at the hearing, admitted that the Strontia Springs resort could compete favorably with Dome Rock. This being true, and it being admitted that the 75 cent special-train excursion fare from Denver to Strontia Springs is reasonable, the Commission is convinced from an examination of the record that the Petitioner is not discriminated against as to special-train excursion fares and commutation fares.

The Respondent carrier contends that it has been forced into filing with the Commission a schedule of very low fares and rates to points on its branch of railway known as the "South Park branch", and on which is located Strontia Springs, because of street car, railroad and resort competition out of the City of Denver. This statement appears to be correct.

It is the purpose of the Commission to see that no community is discriminated against by any public utility, and the Respondent railroad must designate Strontia Springs in its tariffs as a station, and sell all classes of tickets to and from Strontia Springs, as well as permit the patrons of this resort to board and alight from its trains at that station. However, there appears to be no reason why commutation books should be sold to and from Strontia Springs during the winter months, unless the Respondent railroad company desires to do so. Strontia Springs receives the same service in this respect as do other summer resorts on this branch of the railway lines of the Respondent company.

IT IS THEREFORE ORDERED, That the Respondent railroad company shall publish Strontia Springs in its tariffs as a flag station, and provide for passenger and freight fares and charges to and from Strontia Springs, and to furnish to the said Strontia Springs similar service to that provided for other resort stations upon its branch of railway known as the "South Park branch".

IT IS FURTHER ORDERED, That the Respondent railroad company shall publish in its tariffs a rate of seventy-five (75) cents per person as a special train excursion fare from Denver to Strontia Springs and return, with a guarantee of one hundred passengers.

IT IS FURTHER ORDERED, That in all other respects the petition of the Petitioner be dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendrae

Geo T. Bradley

W. G. Smith
Commissioners.

Dated at Denver, Colorado,
this 10th day of August, 1916.

NO COPY
ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE COLORADO SPRINGS AND INTER-
URBAN RAILWAY COMPANY,

Complainant,

-vs-

CASE NO. 75.

THE ATCHISON, TOPEKA AND SANTA
FE RAILWAY COMPANY,

Defendant.

Submitted June 28th, 1916.

Decided August 18, 1916.

A P P E A R A N C E S:

For the complainant, Messrs. Chinn & Strickler
and Mr. B. M. Lathrop.

For the defendant company, Henry T. Rogers, Esq.,
George A. H. Fraser, Esq., Mr. C. H.
Bristol and Mr. J. M. McMahon.

O R D E R

On the first day of June, 1916, the complainant filed a verified complaint, alleging in substance that the defendant railroad company operates a single-track steam railway line over and across a public street in the City of Colorado Springs known as Fontanero Street, which line of railway runs in a general northerly and southerly direction across said Fontanero Street; that the complainant operates a single-track electric street railway line upon said

Fontanero Street in a general easterly and westerly direction; that the electric railway line intersects the railway line of the defendant; that the said Fontanero Street is situated in the northerly portion of the City of Colorado Springs on the outskirts thereof, and that said Fontanero Street has but little traffic over the same other than the street railway line of the complainant; that, pursuant to the provisions of a franchise granted to it by the City of Colorado Springs, the complainant constructed the said single-track railway line on Fontanero Street in June, 1910, and entered into a Crossing Agreement with the defendant, a copy of which is attached to the complaint, in which the parties agreed:- that the defendant company should install a standard interlocking plant and erect a tower house with the necessary signals, derails and connections, at the point of intersection of the tracks of the parties, and that the complainant should, upon receipt of a bill therefor, promptly pay to the defendant company one-half of the cost of the interlocking plant and installation thereof; that, while the interlocking plant should be under the exclusive control of the defendant company, one-half of the cost of management, operation, maintenance, repair or renewal should be paid by the complainant; that in case of dispute as to the management and control of the interlocking plant, the same should be submitted to a Board of Arbitration, and that in the event of either party abandoning its railroad at the point of intersection the agreement should terminate, but that the party abandoning its railroad should pay to the other party one-half of the amount which might be agreed upon between the parties

as to the value of the interlocking plant at the time of the abandonment. The parties also agreed as to the placing of the wires and poles of the complainant and the support and maintenance thereof and other matters incidental to the main object of the contract.

It is then alleged that the complainant operates the Fontanero Street car line by connecting the same with the Tejon Street line, said line being one of its main lines, and running thence east over and across the steam railway line of the defendant and past what is known as the Hastings Addition Settlement to what is known as The Colorado Springs Golf Club; that the operating cost of the said Fontanero Street line far exceeds the gross revenue derived therefrom by the complainant -- said operating cost including one-half of the maintenance cost of the interlocking plant referred to in the contract, which for the year 1915 was \$1,263.82; that the complainant also operates another single-track line in the City of Colorado Springs known as the Wahsatch Line, which connects with Fontanero Street and which the complainant desires to operate in connection with the Fontanero Line for the reason that it can operate its said Wahsatch Line and Fontanero Line together with no increased cost and thus save the expense to the complainant now being incurred by it in operating the Fontanero Line; that if the interlocking plant be eliminated the complainant will be enabled to operate its Wahsatch and Fontanero Lines as one line and by so doing will be enabled to operate the same in conformity with General Order No. 14 made and entered by this Commission on the 26th day of February, 1916, and it is asserted that compliance with the provisions of General Order No. 14 would be sufficient protection to the public from

injury at the crossing because of the small amount of traffic on Fontanero Street and the clear view of any approaching train coming either from the north or south which any motorman in charge of a street car approaching said intersection has for a distance of approximately one mile. It is then stated that in the opinion of the City Council of the City of Colorado Springs the maintenance of an interlocking plant at said Fontanero Street crossing is unnecessary for the protection of the public and that the compliance of the complainant with the provisions of said General Order No. 14 would be sufficient regulation for the protection of the public at said street crossing.

The complainant then prays for an order of the Commission cancelling and annulling the contract entered into by the parties in June, 1910, and that such disposition of the interlocking plant and the division of the proceeds arising therefrom be made between the parties as to the Commission may seem just and reasonable, and that the complainant be permitted to operate its cars upon said Fontanero Street across the steam railway track of the defendant solely subject to the provisions of said General Order No. 14.

On the 12th day of June, 1916, the defendant filed its Answer and Plea to the Jurisdiction of the Commission, and by way of answer denies that the elimination of the interlocking plant would have any effect on the operation of the Wahsatch Avenue and Fontanero Street Lines of the complainant, and denies that compliance by complainant with General Order No. 14 of the Commission would be sufficient protection to the public from injury at said

crossing, but avers that the said interlocking agreement was entered into by and between the complainant and the defendant after long and careful consideration, and with the acquiescence and approval of the City Council of Colorado Springs, and that the maintenance of the interlocking plant is necessary for the safety of employees and passengers, both of the complainant and defendant, and of the general public in using and traveling upon said Fontanero Street; that the Fontanero Street crossing is located at a very dangerous point by reason of the fact that there is a curve in the line of the defendant's railway a short distance south of the crossing and that the view thereof by train crews approaching from the south is obstructed by buildings and trees; that there is a considerable grade from north to south on the line of the defendant's railway as it approaches and crosses Fontanero Street. That the defendant frequently runs freight trains of great length and weight down said grade and over said crossing and that it is impossible to bring them to a full stop in less than 300 or 400 yards; that emergency stops are extremely dangerous to passengers and destructive to equipment, and in the event of the failure of brakes or failure of train control in any respect, it would be physically impossible for any such train to stop before reaching the crossing. The defendant then avers that it is impossible to rely upon the obedience of employees of the complainant in operating electric cars over said crossing, and in support thereof states that frequently heretofore the employees of the complainant have disregarded signals of the interlocker with the result that said electric cars have been

derailed by the interlocker, and that by reason of the foregoing matters and things, the continued maintenance of said interlocking plant at said crossing is absolutely necessary for the safety of the public and of the employes, both of the complainant and defendant.

It is further averred that the plans contemplated by the complainant for jointly operating its Wahsatch Avenue Line and its Fontanero Street Line will still require the use of said Fontanero Street crossing and that all of the dangers outlined will continue to exist at said crossing as heretofore.

By way of further answer to the complaint of the complainant it is alleged that the parties entered into the interlocking contract for the greater safety and security of the persons and classes of persons riding on the trains of the complainant and defendant, and that the same are highly beneficial and consistent with public policy; and that while the Commission is empowered to order additions, extensions, repairs, improvements and changes in the equipment or facilities of any public utility for the purpose of securing greater safety and better service to the public, it is not within the power or the jurisdiction of the Commission to abolish the safety devices and means of protection agreed upon and established by contract between such public utilities for the general safety and security, except in cases where the Commission is of the opinion that such devices are detrimental rather than advantageous to the public.

It is further averred that the Commission is not a judicial body and that its powers are only such as are conferred upon it by the Act creating it and that the Commission has no power or authority to cancel or annul a

lawful contract entered into by two public utility corporations or by any person whatsoever, and that such annulment or cancellation can only be made or ordered by a court possessing equity powers.

The above cause convened at the Council Chamber in the City of Colorado Springs on the 23rd day of June, 1916, at 3 o'clock p. m., and the Commission received testimony of witnesses for the complainant and the defendant and the Commission. Many photographs of the crossing, interlocking system and surrounding territory were introduced as exhibits.

As has been announced by the Commission in many preceding cases the Commission is not a court, but is a creature of the Legislature with defined powers, but certainly the Commission may decide facts presented for determination so that the Commission may properly apply the law under the authority delegated to it by the Legislature. In the event that a contract has been made between a public utility and a municipality, person or other public utility, insofar as the same may be contrary to or in conflict with the Public Utilities Law of the State of Colorado, the same may be altered or amended by the decision of this Commission.

There appears to be no question but that the Commission is powerless to order the interlocking plant dismantled and sold and the proceeds divided between the parties. The Commission, no doubt, has the authority to order the removal of a safety device and the installation of another for the purpose of uniformity. It is doubtless true that the Commission may remove the joint property of the public utilities in the event the same interferes with efficient service.

It is contended by the complainant that the Fontanero Line, a branch of its system of street railways within the City of Colorado Springs, does not pay operating expenses, and it is intimated that the abandonment of its line should be permitted by the Commission because of its financial showing.

While the Commission, in a proper application for the abandonment of a branch line of a street railway company, would permit the introduction of evidence in regard to the operating revenues of the branch line, yet the fact that the branch line was not of itself earning operating expenses would not necessarily justify the Commission in permitting the abandonment of the branch line. It has been so held by the Colorado Supreme Court in the case of The Colorado & Southern Railway Company vs. The State Railroad Commission et al (54 Colo. 64). However, this is not an application for the abandonment of the Fontanero Line but for an order which will have the effect of removing the safety device.

It is alleged in the complaint of the complainant that by consolidating the Fontanero Line and the Wahsatch Line a saving of six thousand dollars may be made in the operating expenses of the complainant and that the maintenance of the interlocking system prevents the consolidation, but there does not appear to be sufficient evidence to justify the alleged ground of complaint.

While it is true that on several occasions the street cars of the complainant have been held at this crossing for several minutes due to the operation of the interlocking plant, the evidence introduced is not sufficient to convince the Commission that the delays occasioned by the operation of the interlocking plant can bring about the failure of the proposed consolidation of the two lines of street railway.

Evidence was introduced in this cause to show that the cost to the complainant of its share of the maintenance of the interlocking plant was approximately one thousand dollars per annum, which the complainant avers is excessive, and that a hand derailler installed by the complainant will adequately protect the crossing with approximately no cost in maintenance to follow the installation.

It is also contended by the complainant that General Order No. 14 of the Commission, which in substance provides for conductors of a street car, upon the arrival of the street car at an intersection of a railway and the street car line, to cross the railway track and if no train is approaching to permit the street car to proceed, will be sufficient protection to the traveling public in this case. From a careful reading of the record and examination of the exhibits, the Commission is of the opinion that this crossing is less dangerous than many crossings now protected by hand derailleurs or the protection given by the Commission in General Order No. 14, but where two public utilities have entered into a written agreement providing for an interlocking plant at the intersection of the tracks of the public utilities with other considerations surrounding same as well as the right of the complainant to cross the track of the defendant without proceedings in condemnation, the Commission should not only consider the adequate protection for the crossing, but must also consider the attitude of the parties as well as the written contract. In this case the defendant is resisting the endeavor of the complainant to remove the interlocking plant from the Fontanero Street crossing, even though the complainant agrees to maintain a hand derailler at this crossing, and the grounds set forth

by the defendant in resisting the position of the complainant take the form of testimony to the effect that the interlocking plant is the safest and most efficient safety device that may be installed at the intersection of railway tracks for the protection of passengers and employes of railways.

It is admitted by the complainant and by the engineer of the Commission that an interlocking plant is the most efficient and safest device that may be installed at the intersection of railway tracks. It would appear, therefore, that before the Commission would be justified in ordering the removal of this device from the Fontanero Street crossing, there must be evidence of a different nature than has been introduced in this case. It is the opinion of the Commission that the record does not disclose sufficient evidence upon which the Commission may base an order eliminating the interlocking plant and substituting therefor a device which is no safer and perhaps less safe. It must be a rare case indeed in which a public utility commission will order the removal of an admittedly efficient crossing protection installed through a written agreement of two public utilities with one of the parties objecting to the removal of the crossing protection on the ground that it will result in a dangerous crossing. Such an order would be a detriment to adequate crossing protection and would no doubt leave the impression with the various public utilities of the state that safety was of less importance than operating revenues.

In the event the evidence introduced in this case was of a nature that the Commission could be convinced that inefficient service to the public was being rendered as the result of an unwise contract between the two public utilities

and that a substituted safety device with a much less cost of maintenance together with the elimination of delay at the intersection of the tracks, then the Commission would have before it a different proposition for solution.

IT IS THEREFORE ORDERED, that the complaint of the complainant be dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,

S. S. Stendall

Geo T. Bradley

M. H. G. Bennett
Commissioners.

Dated at Denver, Colorado,
this 18th day of August,
1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

MAKE NO COPY

Investigation on the motion of the Commission into the reasons for and the causes of the non-compliance of The Denver and Rio Grande Railroad Company with the scheduled time of Trains Nos. 15 and 16, 115 and 116, 119 and 120, 315 and 316, 319 and 320, as shown in 1st Division Timetable 115, 2nd Division Timetable 103, 3rd Division Timetable 96-A and 4th Division Timetable 100, and supplements thereto, filed with the Public Utilities Commission of the State of Colorado, and to show cause why the above numbered trains of The Denver and Rio Grande Railroad Company are not operated on scheduled time, and to show cause why, in the event it is impossible to operate the said trains on scheduled time, the Commission should not make new and different schedules for the operation of said trains.

August 19, 1916

CASE NO. 94

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS ORDERED, That the Commission, on its own motion, institute an investigation into the reasons for and the causes of the non-compliance of The Denver and Rio Grande Railroad Company with the scheduled time of Trains Nos. 15 and 16, 115 and 116, 119 and 120, 315 and 316, 319 and 320, as shown in 1st Division Timetable 115, 2nd Division Timetable 103, 3rd Division Timetable 96-A and 4th Division Timetable 100, and supplements thereto, filed with The Public Utilities Commission of the State of Colorado, and to show cause why the above numbered trains of The Denver and Rio Grande Railroad Company are not operated on scheduled time, and to show cause why, in the event it is impossible to operate the said trains on scheduled time, the Commission should not make new and different schedules for the operation of said trains; that you, The Denver and Rio Grande Railroad Company, are hereby ordered to

appear at the Hearing Room of the Commission in the State Capitol Building in the City and County of Denver, State of Colorado on the 26th day of September, 1916, at the hour of ten o'clock a. m. before the Commissioners en banc, to make such defense to the above cause as may be thought necessary by you.

IT IS FURTHER ORDERED that the Secretary of this Commission be, and he is hereby directed to serve upon the above named defendant a certified copy of this order, accompanied by a notice directing the said defendant to appear at the time and place above specified to take such part in said hearing as the said defendant may desire, and to make such defense as shall appear necessary to the said defendant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,

S. A. Kendall
Geo T. Bradley
Commissioners.

Dated at Denver, Colorado,
this 19th day of August,
1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Investigation on the motion of the Commission into the reasons for and the causes of the non-compliance of The Denver and Rio Grande Railroad Company with the scheduled time of Trains Nos. 15 and 16, 115 and 116, 119 and 120, 315 and 316, 319 and 320, as shown in 1st Division Timetable 115, 2nd Division Timetable 103, 3rd Division Timetable 96-A and 4th Division Timetable 100, and supplements thereto, filed with The Public Utilities Commission of the State of Colorado, and to show cause why the above numbered trains of The Denver and Rio Grande Railroad Company are not operated on scheduled time, and to show cause why, in the event it is impossible to operate the said trains on scheduled time, the Commission should not make new and different schedules for the operation of said trains.

CASE NO. 94

NOTICE OF HEARING.

To the above:

The Denver and Rio Grande Railroad Company,
a corporation.

You are hereby notified that for some time past the Commission has received numerous informal complaints objecting to the methods of the operation by you of Trains Nos. 15 and 16, 115 and 116, 119 and 120, 315 and 316, 319 and 320, as shown in 1st Division Timetable 115, 2nd Division Timetable 103, 3rd Division Timetable 96-A and 4th Division Timetable 100, and supplements thereto, filed with The Public Utilities Commission of the State of Colorado, and on the 19th day of July, 1916, the Commission directed Mr. E. S. Johnson, an Inspector for the Commission, to investigate

into the operation of the above numbered trains by you, and received from its Inspector on the 8th day of August, 1916, a detailed written report of the investigation conducted by him, accompanied by a recommendation that the Commission take such immediate action as may be deemed necessary; and as a result of the numerous informal complaints filed with the Commission and the reports submitted by its Inspectors, this Commission has decided to investigate the same upon its own motion.

You are further notified that such investigation and hearing will convene at the Hearing Room of the Commission in the Capitol Building in the State of Colorado at the hour of ten o'clock a. m. on the 26th day of September, 1916.

You are further notified to be at such investigation and hearing and take such part therein and make such showing on your own behalf as you may desire and your interests seem to require.

You are further notified that attached hereto is a certified copy of this Commission's order instituting the above investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

By

George P. Apley
Secretary.

Dated at Denver, Colorado, this
19th day of August, 1916.

ORIGINAL

BEFORE
THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO.

In Re ADVANCES IN EXPRESS COMMODITY RATES.

INVESTIGATION AND SUSPENSION DOCKET No.5.

Submitted July 18th, 1916.

Decided August 23d, 1916.

Appearances:

C.M.Day, Superintendent, Adams Express Company,
L.R.Parry, General Agent, American Express Company,
N.K.Lockwood, Traffic Manager, Wells Fargo & Company Express,
J.C.Harraman, Rate Expert, Wells Fargo & Company Express,
G.F.Johnson, Superintendent, Wells Fargo & Company Express.

STATEMENT.

This investigation involves the reasonableness of the proposed changes in the commodity rates of the express companies operating within the state of Colorado as set forth in tariffs filed with the Commission to become effective June 1st, 1916. While the companies respondent to this investigation are the Adams Express Company, the American Express Company and the Wells Fargo & Company Express, the tariffs were filed only by Mr.F.G.Airy, as joint agent for the carriers, and the Wells Fargo & Company Express.

The Commission, after making a check of the tariffs, being of the opinion that the rights and interests of the public might be injuriously affected by the increases contained in the new schedules, suspended the tariffs until the 30th day of August, 1916, pending a hearing and investigation thereon. On the 18th day of July, 1916, the Commission held a hearing in its hearing room at Denver, Colorado, at which the representatives of the various express companies appeared to make such showing

and defense in support of the proposed schedules as they thought necessary.

It would be an impossibility for the Commission to estimate the extent of the changes proposed, due to the elimination of many rates, the establishment of new rates, the change in minima, and other factors of like nature. The schedule filed by Mr. Airy, as agent for the carriers, if allowed to become effective would contain all of the commodity rates previously contained in twenty five schedules. It was the desire of the express companies, in filing the new schedule, to simplify the existing tariffs, to eliminate all commodity rates that had not been used in the past and of which there was little prospect of future use, and to also eliminate all commodity rates which were so closely related to the second class scale rate as to warrant their elimination. It was stated by the representative of the Wells Fargo & Company Express that that company had inherited many extremely low rates from the Globe Express Company, which company dissolved April 30th, 1915, and desired to establish a minimum rate for 100 pounds of 40 cents in lieu of the varying rates as low as 15, 20 and 25 cents per 100 pounds. Under the block system the rate for 100 pounds on second class commodities under scale 1 is 42 cents.

Exhibits were filed by the express companies showing comparisons of the present and proposed rates with rates for similar distances in other states located in the fourth zone territory. The state of Colorado lies partly in the third zone and partly in the fourth zone, the two zones being divided by the 105th meridian. No comparison with third zone rates was made.

Uniformity of rates and simplification of tariffs are greatly to be desired, although it is not to be expected that rates may be advanced or reduced simply for the purpose of having a uniform basis, or simplifying tariff schedules. The rates must be reasonable in and of themselves in the first instance.

The Commission has carefully reviewed the changes pro-

posed and has endeavored to anticipate, in a general way, the ultimate result to the shipping public. There are approximately two thousand changes proposed, of which about sixty per cent are advances and the balance reductions. While the amount of the increased rates in cents per hundred pounds is known to the Commission, yet the short time involved has not presented opportunity to check the amount of traffic moving under all of the rates in question. Nor does the Commission deem this to be of prime importance. From the exhibits filed showing the volume of tonnage moved under the majority of the rates; from the population of the towns to and from which the rates apply; and from a knowledge of the centers of production of the various commodities, the Commission has been able to arrive at the conclusion that the new rates, in the main, do result in the ^{that} elimination of inactive rates and ~~fixing~~ there is little probability that the future will develop a need for the maintenance of the same.

The question of a general revision of express rates within the state of Colorado first came before the attention of this Commission on January 9th, 1914, at a meeting of the Express Committee of the National Association of Railway Commissioners held in the office of this Commission at Denver, Colorado. The Interstate Commerce Commission had previously promulgated the order prescribing interstate express rates for the entire United States in In re Express Rates, Practices, Accounts and Revenues, 24 I.C.C., 380. It was felt by the various state commissions in the fourth zone, and by the express companies themselves, that the interstate scale should be modified for the application of intrastate traffic, at least in the states located in the fourth and fifth zones. At the meeting of the Commissioners of the fourth zone territory referred to above a modified principle of the interstate basis of express rates for first and second class commodities was adopted and later

published by the various express companies. It was agreed by the express companies at the conference that all special commodity rates would remain without change, subject to future modifications and revisions by the Commissions, pending the trial of the class scale rates.

The adoption of the new interstate and intrastate scales brought about a revolution in express rates and it was thought best to leave the commodity rates unchanged until the final results of the application of the class scales might be determined. The modified intrastate class rates were published and filed with this Commission effective upon Colorado state traffic on April 10th, 1914. These rates have, therefore, been in effect for a period extending over two years and the Commission has thus been given a chance to closely observe the effect of the new rates. Only one revision was necessary by the Commission, and only one formal complaint has been presented to the Commission in that time. The latter is now pending before the Commission. Many informal complaints have been received by the Commission, but all having reference to discrimination caused by the application of the special commodity rates. All such complaints have been readily and speedily adjusted by the express companies when their attention has been called to the discrepancies by the Commission. It would appear from the few complaints registered with the Commission against the block and sub-block rates that the new basis is giving satisfaction throughout the state, and from the numerous informal complaints received in references to the commodity schedules that the latter might properly be revised and realigned.

Practically all of the complaints against the commodity rates arise from the fact that no intermediate clause is contained in the schedules covering such rates. Many special second class commodity rates are in effect between towns within the state which are lower than the second class scale rate to points located intermediate thereto. It is the opinion of the Commission that

the commodity tariffs of the express companies operating within the state of Colorado should, to prevent discrimination between various localities, contain an intermediate clause providing that the rates contained therein shall not be exceeded to or from any intermediate points. No order will be entered by the Commission in this respect but the suggestion is made for the earnest consideration of the express companies. Such a clause would obviate the frequent amending of the tariffs to establish individual rates at the intermediate points and would automatically remove the cause for the many informal complaints received by the Commission.

While the changes proposed cover a great many commodities the principal ones affected are beer, butter and eggs, laundry, fruit and vegetables, and second class rate exceptions. All of the beer special commodity rates have been eliminated by the new schedules in view of the fact that the state of Colorado became prohibition territory on January 1st, 1916, so no reference need be given to the increases resulting from the application of the class rates.

An exhibit was filed showing the amount of butter and eggs moved during the month of May, 1916, between the points from and to which the rates on those commodities have been changed. As the movement is so small between these points and as practically all of the shipments made are under 100 pounds each the increases will affect shipments of butter and eggs but little. Between the points within the state where the greatest movement of this traffic takes place no increases or changes are proposed.

The Commission has been unable to complete its investigation of the changes in the rates on laundry between all points involved, and on fruit and vegetables between the points specified in sections 3 and 4 of F.G.Airy's Colo.P.U.C. No. 73. An order further deferring the operation of the schedules on these commodities will be entered pending the complete investigation by the Commission, after which a supplemental order will be entered in respect to those items.

The rates on other miscellaneous commodities and second class traffic taking special commodity rates are clearly for the purpose of eliminating inactive rates; establishing a more proper relation between express and freight rates; and advancing the low minimum rates per 100 pounds of 15, 20 and 25 cents which it is contended are unreasonably low. The average operating cost per piece on the entire system of the Wells Fargo & Company Express for the month of April, 1916, was 21.89 cents, the average revenue per piece 53.49 cents out of which the express company paid the railroad companies for express privileges an average of 52%, or 27.8 cents, making an average total expense to the express company of 49.69 cents per piece.

All of the rates changed are for 100 pounds and, as the majority of the shipments made under express rates are less than 100 pounds, very few, if any, increases will result from the establishment of the proposed rates. At the meeting of the Express Committee referred to above it was found that only eight per cent of the shipments made within the state of Colorado are of 100 pounds or over. The average weight of the merchandise, or first class, shipment shipped over the lines of the Wells Fargo & Company Express in the state of Colorado is twenty six pounds, and the average of all commodities forty pounds.

The Commission, after carefully examining the rates in the suspended schedules and the testimony and exhibits filed in this case, is of the opinion that if the suspended rates, with the exceptions noted below, are allowed to become effective no increase will result to the shipper in the actual amount of charges, but, on the other hand, the charges on the small packages will decrease due to the many reductions contained in the schedules, and that no prejudicial or discriminatory rates will result further than may at present be in effect under the rates in which no change is proposed, although if it develops later that discrimination does result from the application of

the new rates such inequality will promptly be adjusted. The Commission will enter an order further deferring the operation of the schedules on laundry, and on fruits and vegetables as specified in section 3 and 4 of F.G.Airy's Colo.P.U.C.No.73, and will enter an order vacating the order of suspension with respect to the rates on all other commodities.

The order of the Commission in this cause does not prejudice the right of any party, entitled to bring action before the Commission under the Act, to bring a formal complaint at any time against the reasonableness of any rate or rates contained in the schedules upon which the order of suspension has been vacated.

O R D E R .

IT APPEARING that, by order dated May 6th, 1916, the Commission entered upon a hearing and investigation concerning the propriety of the increases and the lawfulness of the rates, rules, regulations and practices stated in schedules enumerated and described as F.G.Airy's Colo.P.U.C.No.73; supplement 15 to Colo.P.U.C.No.26 and supplement 6 to Colo.P.U.C.No.32 of the Wells Fargo & Company Express; supplement 20 to Colo.P.U.C.No.33, supplement 12 to Colo.P.U.C.No.69 and supplement 2 to Colo.P.U.C.No.94 of the Wells Fargo & Company Express (Globe Express Company issues), and ordered that the operation of the said schedules be suspended until August 30th, 1916;

IT FURTHER APPEARING that an investigation of the matters and things involved has been had (with the exception of the investigation of the rates on laundry, and fruits and vegetables as further set forth in this order), and the Commission on the date hereof has made and filed a report containing its findings of fact and conclusions thereon:

IT IS ORDERED, That the order heretofore entered in

this proceeding suspending the operation of said schedules (except insofar as it applies to rates on laundry, and fruits and vegetables as specified in sections 3 and 4 of F.G.Airy's Colo.P.U.C.No.73) be, and it is hereby, vacated and set aside as of August 30th, 1916;

IT IS FURTHER ORDERED, That the operation of the rates on laundry between all points, and on fruit and vegetables as specified in sections 3 and 4 of F.G.Airy's Colo.P.U.C.No. 73, contained in said schedules, be further suspended, and that the operation of the rates, rules, regulations and practices therein be further deferred upon intrastate traffic until the 28th day of November, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall
Geo T. Bradley
M. H. G. Smith
Commissioners.

Dated at Denver, Colorado,
this 23d day of August, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of an Investigation and
Hearing on motion of the Commission into
the feasibility and necessity of the in-
stallation by The Colorado & Southern
Railway Company and The Denver & Inter-
urban Railroad Company of electric gongs,
audible and visual signals or other suit-
able safety devices at a portion or all
of their respective railroad crossings
located on their lines of railway between
Denver and Boulder, Colorado.

} August 23, 1916

} CASE NO. 95

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

IT IS ORDERED, That the Commission, on its own motion, institute an investigation into the feasibility and necessity of the installation of adequate safety devices by The Colorado & Southern Railway Company and The Denver & Interurban Railroad Company at their railroad crossings located on their respective lines of railway between the City of Denver and the City of Boulder, within the State of Colorado; that the said defendants be and they are hereby ordered to appear at the Hearing Room of the Commission in the State Capitol Building in the City and County of Denver, on the 1st day of September, 1916, at the hour of 10:00 o'clock a. m., before the Commissioners en banc, to make such defense to the above cause as may be thought necessary by the said defendants.

AND IT IS FURTHER ORDERED, That the Secretary of this Commission be and he is hereby directed to serve upon the said Defendants certified copies of this order, accompanied by notice directing the said Defendants, and each of them, to

appear, at the time and place above specified, to take such part in said hearing as they may desire, and make such defense as shall appear necessary to the said defendants.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Hendon

Geo. T. Bradley

Commissioners

Dated at Denver, Colorado
this 23rd day of August, 1916.

Case No. 96.

2025 2024 2023 2022

IT IS ORDERED, That the Commission, on its own motion, institute an investigation into the advisability and necessity of the proposed removal by The Denver & Rio Grande Railroad Company of the middle or third rail from the main track of said Railroad Company between Mile Post 216.8, near Salida, and Mile Post 273, near Leadville, and the discontinuance of narrow gauge freight service between those points; that the said defendant be and it is hereby ordered to appear at the Hearing Room of the Commission in the State Capitol Building in the City and County of Denver, State of Colorado, on the 15th day of September, 1916, at the hour of 10:00 o'clock a.m., before the Commissioners en banc, to make such defense to the above cause and take such part therein and make such showing upon its own behalf as it may desire or its interests seem to require.

IT IS FURTHER ORDERED that the protestants may appear at said hearing and take such part therein and make such showing as their interests seem to require.

IT IS FURTHER ORDERED that the Defendant, The Denver & Rio Grande Railroad Company, shall not remove the middle or third

rail from its main track between Mile Post 216.8, near Salida, and Mile Post 273, near Leadville, nor discontinue narrow gauge freight service between those points, until the further order of this Commission.

IT IS FURTHER ORDERED that the secretary of the Commission be and he is hereby directed to serve upon the above named Defendant a certified copy of this order, accompanied by a notice directing the said defendant to appear, at the time and place above specified, to take such part in said hearing as the said Defendant may desire, and make such defense as shall appear necessary to the said Defendant.

IT IS FURTHER ORDERED that the secretary of the Commission be and he is hereby directed to serve upon George E. Collins, General Manager of The Mary Murphy Mining Company, J.V. Sickman, Secretary of The Rocky Mountain Fuel Company, and M.E. Peters, Esq., and C.C. Barker, Esq., attorneys and agents for the one hundred protestants, certified copies of this order, accompanied by notice of hearing in this cause.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kessell

Geo. T. Bradley

M. H. Lunn
Commissioners.

Dated at Denver, Colorado,
this 29th day of August, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE ROCKY MOUNTAIN FUEL COMPANY, a
corporation,
Complainant,

vs.

THE DENVER & RIO GRANDE RAILROAD COMPANY,
THE RIO GRANDE SOUTHERN RAILROAD COMPANY,
and THE SAN LUIS SOUTHERN RAILWAY COMPANY,

Defendants.

) August 30, 1916

) Case No. 88.

On the 26th day of July, 1916, there was filed with the Commission the written complaint of the complainant alleging that it is the owner of the Baldwin Mine and that the principal markets in Colorado in which complainant is endeavoring to market the coal produced by the said mine are the stations located on the following lines operated by the Defendants, to-wit:

On the lines of the Defendant, The Denver & Rio Grande Railroad Company, Gunnison, to Grand Junction, Ridgway and Ouray, via Montrose; Sapinero to Lake City; Gunnison, to Leadville via Salida; Poncha Springs to Monarch; Mears to Orient, Cottonwood, Alamosa, Antonito and La Veta Pass, and from Alamosa to Creede; on the lines of the Defendant, The Rio Grande Southern Railroad Company, from Ridgway to Telluride and Dolores; on the line of the Defendant, The San Luis Southern Railway Company, from Blanca to Jaroso, including all of the stations above named; and that the character of the coal produced at the Baldwin Mine is such that it is competitive with Bowie and Somerset coal from those mines located on the line of the Defendant, The Denver & Rio Grande Railroad Company; that the rates published by the Defendants for

the transportation of the various sizes of coal from complainant's mine to the aforesaid destinations are unjust, unreasonable, excessive and discriminatory.

The Complainant then prays that the Commission, after hearing and investigation, issue an order fixing just and reasonable rates to be observed by the Defendants as maximum rates for the transportation of the various sizes of coal from Baldwin to the destinations hereinabove referred to; that in and by said order this Commission shall establish the differentials in the rates as between the different coal districts to be observed and maintained by Defendants, and for such other or further orders as to the Commission may seem meet and proper.

On the 7th day of August, 1916, the Defendants answered the complaint of the Complainant denying that the rates were unreasonable and alleging that the same were not discriminatory.

On the 25th day of July, 1916, the Commission in Case No. 41, The Grand Junction Mining & Fuel Company, et al, v. The Denver & Rio Grande Railroad Company, prescribed reasonable rates for the transportation of coal, carloads, from mines located in the Cameo-Palisade District to various points on the lines of The Denver & Rio Grande Railroad Company. The changes made by the Commission in the rates from the Cameo-Palisade District made necessary a revision of the rates from the Bowie-Somerset and the Baldwin-Crested Butte Districts. At the suggestion of the Commission the revised rates from the latter two districts were published to become effective August 15, the same date as the effective date of the order in Case No.41, so that the various districts might be on a parity, and that temporary conflict might not result as between the different districts. Tariffs were, therefore, filed with the Commission containing the proposed changes, and the Commission, with tentative approval of the rates submitted, authorized the carrier to make same effective August 15th. Many reductions from the Baldwin-Crested Butte

District were brought about by this action.

On the 22nd day of August, 1916, a petition was filed by the Complainants in this cause asking that the proceedings be dismissed without prejudice to their right at any future time to bring complaint against the amended schedule of rates.

In view of the facts cited above, it is the opinion of the Commission that an order of dismissal may properly be entered in this case without prejudice to the rights of the Complainant to institute proceedings against the amended rates as published and filed by the carrier between the points involved in this case, and such an order will therefore be entered.

O R D E R

It appearing that the cause for action in the above entitled proceedings has been voluntarily removed by the Defendant carriers, and a petition for dismissal having been received from the Complainant,

IT IS ORDERED, That the above entitled proceedings be dismissed without prejudice to the rights of the Complainant to bring action in the future against the amended rates as published and filed by the carrier.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
Geo T. Bradley
W. H. G. L. L. L.
Commissioners.

Dated at Denver, Colorado,
this 30th day of August, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of an Investigation and
Hearing, on motion of the Commission,
into the advisability and necessity of
the proposed removal by The Denver &
Rio Grande Railroad Company of the middle
or third rail from the main track of said
Railroad Company between Mile Post 216.8,
near Salida, Colorado, and Mile Post 273,
near Leadville, Colorado, and the discon-
tinuance of narrow gauge freight service
between these points.

September 11, 1916

Case No. 96.

A p p e a r a n c e s:

For The Denver & Rio Grande Railroad Company,
E. N. Clark, Esq., and J. G. McMurry, Esq.

For the one hundred Breckenridge and Leadville
protestants, W. E. Peters, Esq., and C. C.
Barker, Esq.

For the Mary Murphy Gold Mining Company, Harry
W. Robinson, Esq.

For The Rocky Mountain Fuel Company, J. V. Sick-
man, Esq.

For the Gunnison protestants, C. R. Duree, Esq.,
et al.

ORDER OF DISMISSAL.

On the 2nd day of August, 1916, the Commission
received a written notice from The Denver & Rio Grande
Railroad Company that it was the intention of the company
to remove the middle or third rail from its main track of
railway between Mile Post 216.8 near Salida and Mile Post
273 near Leadville, and that after said removal of said
third rail The Denver & Rio Grande Railroad Company would
discontinue narrow gauge freight service between these
points. This notice was filed with the Commission in

compliance with the Commission's General Order No. 15, requiring thirty days notice to the Commission before a railroad company may discontinue its service or abandon any portion of its railway track.

Subsequent to the date of the receipt of this notice by the Commission formal protests directed against the proposed removal of the middle rail and the discontinuance of narrow gauge freight service upon the railway of the Denver & Rio Grande Railroad Company were filed with the Commission by The Rocky Mountain Fuel Company and The Mary Murphy Gold Mining Company.

On the 28th day of August, 1916, the Commission received a formal protest and complaint on behalf of one hundred residents and citizens of Breckenridge and Leadville and other towns and cities similarly situated, protesting against the removal of the third rail from the main track of The Denver & Rio Grande Railroad Company between Mile Post 216.8, near Salida, and Mile Post 273, near Leadville, and the discontinuance of narrow gauge freight service between said points.

On the 29th day of August, 1916, the Commission decided to investigate the same upon its own motion and issued an order directed against The Denver & Rio Grande Railroad Company to appear before the Commission at its Hearing Room in the State Capitol Building in the City and County of Denver, State of Colorado, on the 15th day of September, 1916, at the hour of 10 o'clock a. m., to make such defense to this cause and to take such part therein and make such showing upon its own behalf as the said railroad company might desire or its interests seemed to require. The protestants were duly notified of the date of said hearing and invited to take such part therein and make such showing

as their interests seemed to require. It was further ordered by the Commission that the defendant, The Denver & Rio Grande Railroad Company, should not remove the middle or third rail from its main track between Mile Post 216.8 near Salida and Mile Post 273 near Leadville, nor discontinue narrow gauge freight service between these points until the further order of the Commission.

On the 30th day of August, 1916, the Mary Murphy Gold Mining Company filed its duly verified petition for intervention and complaint with the Commission.

On the 6th day of September, 1916, eighty-five residents and citizens of the Town of Gunnison, State of Colorado, filed with the Commission a written protest against the removal of the said third rail and discontinuance of the narrow gauge freight service as contemplated by The Denver & Rio Grande Railroad Company in its notice to the Commission filed on the 2nd day of August, 1916.

On the 6th day of September, 1916, the Commission received the following communication from The Denver & Rio Grande Railroad Company:

"Denver, Colo., Sept. 6, 1916.

RE LIFTING THIRD RAIL FROM LINE OF THE
DENVER AND RIO GRANDE RAILROAD COMPANY
BETWEEN SALIDA AND LEADVILLE; PUC No. 96:

The Public Utilities Commission of the State of Colorado,
State House,
Denver, Colorado.

Gentlemen:

The Denver and Rio Grande Railroad Company hereby withdraws notice given under date of August 2, 1916 of intention of the Rio Grande Railroad to remove the third rail from the portion of its track described in said notice. This withdrawal is without prejudice to the right of The Denver and Rio Grande Railroad Company to renew said notice and to remove said rail at any time it may be so advised.

THE DENVER AND RIO GRANDE RAILROAD COMPANY
By (SGD) A. E. Sweet,
Vice President "

IT IS THEREFORE ORDERED, that the above cause be dismissed without prejudice to the right of the defendant, The Denver & Rio Grande Railroad Company, to renew said notice of intention to remove said rail and abandon said service in compliance with the Commission's General Order No. 15.

IT IS FURTHER ORDERED, that the Secretary of the Commission notify the protestants in the event The Denver & Rio Grande Railroad Company files with the Commission a notice of its intention to remove said rail and discontinue said service as was contemplated in the above cause.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

L. S. Kendall
Geo T. Bradley
M. H. [unclear]
Commissioners.

Dated at Denver, Colorado,
this 11th day of September,
1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of an Investigation and
Hearing on motion of the Commission into
the feasibility and necessity of the in-
stallation by The Colorado & Southern
Railway Company and The Denver & Inter-
urban Railroad Company of electric gongs,
audible and visual signals or other suit-
able safety devices at a portion or all
of their respective railroad crossings
located on their lines of railway between
Denver and Boulder, Colorado.

CASE NO. 95.

Submitted September 1, 1916.

Decided September 16, 1916.

A P P E A R A N C E S:

For the Defendant companies, The Colorado
& Southern Railway Company and The
Denver & Interurban Railroad Company,
E. E. Whitted, Esq.,
A. S. Brooks, Esq.

STATEMENT AND ORDER.

Pursuant to recommendations made to the Com-
mission by its Engineer in charge of railways, and its
Railway Inspector, the Commission on the 23rd day of
August, 1916, formally began an investigation on its
own motion into the feasibility and necessity of the in-
stallation by The Colorado & Southern Railway Company
and The Denver & Interurban Railroad Company, Defendants
herein, of suitable safety devices at a portion or all
of the railway crossings at grade on the lines of the
Defendant companies between Denver and Boulder, Colorado.

This case was heard before the Commission at
its Hearing Room in the State Capitol building in the



City and County of Denver, Colorado, on the 1st day of September, 1916, at the hour of 10:00 o'clock a.m. D. S. Hooker, the Engineer of the Commission in charge of railways, and E. S. Johnson, the Commission's Railway Inspector, testified as to the physical condition of the railway crossings at grade located between Denver and Boulder on the lines of railway of the Defendant companies, and presented their recommendations concerning proper safety devices at certain of these crossings, as well as to vital matters pertaining to the safe operation of electric trains upon the line of The Denver & Interurban Railroad Company.

F. J. Rankin, Engineer for the Commission in charge of electrical utilities, testified as to the operation of "automatic flagmen" when operated by storage battery or by electric current taken from transmission lines. Mr. Henry Casaday, representing the Boulder Chamber of Commerce, presented valuable information in regard to certain of the crossings at grade, while H. A. Rennick, Superintendent of the Defendant companies, C. J. Neihaus, Claim Agent, W. H. Edmunds, Trainmaster and Electrical Engineer, and Fred Spencer, Motorman, of The Denver & Interurban Railroad Company, testified in behalf of the Defendant companies.

It appears from the evidence in this case that The Denver & Interurban Railroad Company and The Colorado & Southern Railway Company own and operate lines of railway between Denver and Boulder, Colorado, and that the Lincoln Highway - also known as State Highway No. 1 - running from Denver north into Longmont, Loveland, Fort Collins, Colorado, and on into Cheyenne and Laramie, Wyoming, is one of the important highways of the State of

Colorado, and has exceptionally heavy automobile traffic at all times. The evidence shows that this highway is also the main thoroughfare to the City of Boulder and the summer resort of Estes Park. This highway is maintained by the State of Colorado and the various counties traversed by it, and is of permanent construction, being gravelled and of such physical condition as to be inducive to high speed. From inspections made by the Inspector of the Commission and officials of the Defendant companies it is quite readily ascertained that this highway is used by many automobile tourists, and one official of the Defendants testified that by actual inspection he gathered the information that certain of these railway crossings at grade are crossed by an automobile every minute of the day.

The Defendant companies operate steam and electric trains between Denver and Boulder, and the record shows that at Federal Boulevard crossing, Broomfield crossing and Burns Junction crossing an electric railway train is scheduled to pass every thirty minutes, and not less than fifteen steam trains pass each day.

From a point ten miles east of Boulder on the Lincoln Highway automobilists bound for Boulder and Estes Park via Boulder, traverse a gravel and cement highway due west into the city of Boulder, and on this highway is located a railway crossing at grade on the lines of the Defendant companies which is known as Goodview crossing. At a point located at Burns Junction on the Lincoln Highway, a gravel highway known as the Marshall road branches off and enters Boulder by the way of Marshall, upon which branch road are located several railway crossings at grade on the lines of the Defendant companies and more mention



larly known as Park Avenue, Marshall, an unnamed crossing three fourths of a mile south of Superior, and an unnamed crossing three fourths of a mile north of Superior. There are certain other railway crossings between Denver and Boulder, and on highways of less importance, which are now being investigated by the Railway Inspector of the Commission, and concerning which a report will be filed with the Commission in the near future.

The electric trains of The Denver & Interurban Railroad Company have heretofore operated on a schedule of 1 hr. 20 min. from Denver to Boulder and from Boulder to Denver, and at times attain a speed of 55 miles per hour, while freight and passenger steam trains attain a speed of from 20 to 45 miles per hour. Eleven people have been killed as a result of automobile collisions with electric and steam trains upon the lines of railway between Denver and Boulder of the Defendant companies since February 1, 1916, and the testimony introduced developed the fact that many other accidents have been narrowly averted during the last summer season.

Traffic conditions upon the highways of the State of Colorado have been revolutionized during the last ten years. The State of Colorado has organized the State Highway Commission, with control and supervision over highways within the State designated as State highways; the people of the State have voted a one-half mill levy, raising about \$500,000.00 per annum, for the permanent improvement of Colorado's roads, and the various counties of the State have expended large sums of money and exerted every effort to bring about a system of permanent good roads; thus making it known to residents of other States of the Union, as well as to its

own people, the fact that Colorado is a State primarily of good roads; and extending a general invitation to people of other States to traverse the State of Colorado on their journeys west and east and to visit the great resorts of this State. Northern Colorado, through which the Lincoln Highway, or State Highway No. 1, and other important highways, together with the railway lines of the Defendant companies, pass, is known for its extensive agricultural resources, as well as for the Rocky Mountain National Park and other summer resorts, and as a natural result the Lincoln Highway is extensively used by automobilists residing in Colorado and Outside States. Ten years ago the horse-drawn vehicle, traveling at a rate of not to exceed 10 miles an hour, and naturally within a limited radius, did not require the improved highway and the protection at railway crossings at grade that must be given to the traveling public today. While it appears that the State of Colorado, and its counties and municipalities, have expended vast sums of money in constructing and improving its highways, it is apparent that the railroads operating within the State have not entirely kept pace with the changed conditions at their railway crossings at grade and it is the duty of the Commission and the railroads to bring about a readjustment of grade crossing conditions within this State to the end that the general public may receive adequate protection under existing conditions of travel.

On the 27th day of May, 1916, the Commission issued its order "In the matter of an investigation and hearing, on motion of the Commission, into the necessity and feasibility of improving all grade crossings of the following railroads

within the State of Colorado, x x x", and known as Case No. 56, in which case the Commission ordered all railroads operating within the State of Colorado,

"at all points where their railroads cross any public highway known as a state highway, whether primary or secondary, at grade, to provide and maintain at each intersection at grade of railroad tracks with such public highways, grade crossings and approaches thereto at least 24 feet in width, the roadway on either side of track or tracks to be constructed and maintained level with the top of rails not less than 20 feet from center line of tracks on either side, and when more than one track is crossed for not less than 20 feet from center line of outside track; the approaches to be constructed on uniform grade of not to exceed 6 per cent from a point at least 20 feet from center line of track or tracks; the roadway to be well drained and surfaced with gravel or some other suitable paving material and a smooth roadway surface to be maintained on approaches and crossings; all crossings to be planked within city or town limits ten inches on the outside and inside of each rail and the space between the planking in the center of the track shall be filled with gravel or other suitable material, the kind of material to be used to be discretionary with the carrier and under the supervision of the Commission's engineer, and in no case shall the planking or the gravel material be less than sixteen feet in width; that on all crossings not within city or town limits the railroad may use either planking, gravel, slag or other suitable material, provided same be not less than 16 feet in width, but in no case shall slag or other sharp edged material be used."

This order slightly modified the specifications as to railway crossings at grade on highways other than State highways, and the railroads were ordered to bear the expense of complying with the requirements of the order.

This order already has been partially complied with by the Defendant companies at their railway crossings at grade between Denver and Boulder, and the full compliance with the same will naturally give to the public much greater protection than now exists.

From a careful examination of the record and the photographic exhibits introduced in evidence by the

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Inspector for the Commission, the Commission is of the opinion that eight railway crossings at grade upon the railway lines of the Defendant companies between Denver and Boulder are exceptionally dangerous to the general public and should receive immediate consideration at the hands of the Commission.

It is a lamentable fact that, due to the great change in the mode of travel upon the highways and the resultant improvement of the highways, automobiles are driven at a high rate of speed upon and across railway crossings at grade, and many drivers of automobiles should have their licenses revoked by the State for negligent driving. It is not within the power of this Commission to control negligent operation of automobiles at railway crossings, but it has become apparent that some law must be enacted for the protection of those who will not protect themselves. It will be the purpose of the Commission to suggest to the Legislature that adequate laws be passed to the end that some supervision may be had by the State over the operators of motor vehicles so that the drivers thereof may be compelled to use reasonable caution upon approaching a railway crossing at grade. The fact confronts the Commission that it is not only the careless operator of a motor vehicle who may be injured or killed at a railway crossing at grade, but that innocent passengers who are in no way at fault also may be seriously injured or killed.

It has become apparent to the Commission that in the near future many of the important railway crossings at grade must be eliminated, either by separation of the grades or the alteration of the existing highway. It certainly is true that the Legislature should give the Commission the

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right, in its discretion, to refuse to permit any additional highways to be laid out across a railway at grade. Many existing railway crossings at grade within the State are absolutely unnecessary, and yet an apparent defect exists in the laws of Colorado whereby the same cannot be eliminated. Unfortunately the Commission has not the right to eliminate a railway crossing at grade by ordering an underground or overhead crossing and apportioning the expense of the same to the railroad and the county and municipality, as has been found advisable in many States and provided for in the laws of those States. This Commission may order the elimination of a railway crossing, but it has not the authority to apportion any part of the expense to the county or municipality, and in a great majority of cases it is apparent that there should be such an apportionment.

It is true that the Commission may make its estimates and order the railroad to separate the grades at the expense of the railroad company, or to pay a certain portion of the expense in the event the county or municipality agrees to pay the remainder, but it is apparent that this is very unsatisfactory, and the existing laws should be amended in this regard. Several of the railroads have volunteered to place "distant signals" on the highways of the State, at a certain distance from railway crossings at grade, if the consent of the State be given, and this, no doubt, will be effective in many instances.

The Commission has already issued an order to the railroads operating within the State of Colorado, requiring that all obstructions shall be removed from the rights-of-way of the railroads at points adjoining or near

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railway crossings at grade, and this order is being complied with at this time.

It has been suggested by representatives of the Chamber of Commerce of Boulder and operating officials of the Defendant railroads that the railway crossings at grade at Burns Junction and Marshall may be eliminated by the alteration of the highway, and that the railroad companies stand ready to share the expense of this alteration. If this plan is feasible, naturally the question of the protection of these two crossings will be solved, but as the Commission has no power to bring about these changes it appears to be unwise to await developments at some future and uncertain date.

It is the opinion of the Commission that the Chief Engineer of the Defendant companies and the Commission's Engineer in charge of railways should prepare estimates of the costs of separating the grades of the railway crossings at Federal Boulevard and at Burns Junction, and present these estimates to the Commission, to the end that the Commission at a later date may determine the feasibility of the separation of grades at these crossings and apportion the expense between the railroads and the counties or State. It becomes necessary, however, for the Commission to take immediate action to the end that eight railway crossings at grade located on the railway lines of the Defendant companies between Denver and Boulder may be adequately protected at the earliest possible moment.

The Commission heretofore has ordered installation of electrically operated "automatic flagmen" signals, otherwise known as wig-wags, at many highway crossings at grade

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within the State, and the effectiveness of their operation has been carefully investigated by inspectors for the Commission. As has been stated heretofore by the Commission, in Case No. 76, in which the Commission ordered The Denver & Rio Grande Railroad Company and The Atchison, Topeka & Sante Fe Railway Company to install and maintain, at their expense, "automatic flagmen" - otherwise known as wig-wags or audible and visual signals - at each of their railway crossings at grade between Denver and Pueblo,-

" When the Commission first began to enforce this important duty, assigned to it by the Legislature, of protecting the traveling public and the railways by the safeguarding of highway crossings at grade, a deplorable condition existed. While the railways operating within the State of Colorado had afforded some protection at highway crossings at grade within the city limits of municipalities within the State of Colorado by the means of flagmen, only a few crossing bells had been installed, and upon some of the railroads no attempt had been made to maintain the same. Consequently a great damage resulted to the traveling public, in that its right to depend upon the warning of a crossing bell, when the same had been installed, was entirely swept away. Today all of the automatic signals of protection at grade crossings within the State of Colorado are operating and are being properly inspected and, while this is due partly to strenuous work of the Commission, much credit is due the railroads for their hearty co-operation.

The Commission has not become discouraged because of the apparent disregard of the travelers of the danger at railway crossings, but is of the opinion that, as the traveling public becomes aware of the work of this Commission and the large sums of money being expended by the railways for its protection, more attention will be given to careful driving and appreciation of crossing protection.

Inspectors of the Commission have reported that, at railway crossings where the Commission has ordered installation of audible and visual signals the desired result has been accomplished, and that a large majority of the drivers of vehicles stop their machines, at the time the signal begins to move, to await the passing of the approaching train.

Electric warning bells at crossings are adequate protection in many cases, but the Commission is of the opinion that where traffic

is heavy the protection afforded by the audible and visual type of signal warrants the additional expense.

The advantage of the audible and visual signal over the ordinary crossing alarm bell is apparent. The latter is an electric bell which sounds a warning upon the approach of a train. The audible and visual signal, commonly known as the "wig-wag", is ordinarily an electric motor-driven device, sounding an alarm upon the approach of a train and swinging a red disc of sufficient size, upon which is printed the word "danger" and in which is enclosed a red electric light, thus affording additional protection at night by calling the attention of travelers to impending danger, even though the traveler is unable to hear the warning of the bell."

At the conclusion of the hearing in the present cause, the Commission ordered The Denver & Interurban Railroad Company to operate its electric trains upon and over the eight railway crossings at grade above set forth at a speed not to exceed 10 miles per hour, with the exception of the railway crossing at grade located at Broomfield, at which point the railway train was to come to a complete stop before crossing the highway at that point. The officials of the Railroad company testified that plans already had been completed for the elimination of the railway crossing located at Park Avenue. It is therefore understood that the order of this Commission for the protection of the Park Avenue crossing shall become of no effect in event of that crossing being eliminated prior to the effective date of this order.

Testimony also was introduced to the effect that the warning signal whistles now installed on the electric trains of The Denver & Interurban Railroad Company are inefficient, and the Commission has been notified by the railroad companies that experiments are now being conducted to the end that the signal whistles may be made efficient and adequate for all purposes.

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O R D E R.

IT IS THEREFORE ORDERED, That The Denver & Interurban Railroad Company and The Colorado & Southern Railway Company install and maintain at their expense audible and visual signals, each of which shall consist of a red disc with the word "stop" painted thereon in white letters, and in the center of which shall be a red electric light, to be suspended from an arm above the highway and on the right-of-way of the Defendant companies, and which shall begin operating, swinging across the highway, when the trains of the Defendant companies reach a point fifteen hundred (1500) feet distant from the railway crossing at grade. The signal shall be electrically operated and have attached to it a warning bell, which shall sound continuously during the time the trains of the Defendant companies are within the fifteen hundred (1500) foot block approaching the railway crossings at grade. The plans for the audible and visual signals shall be filed with the Commission and approved by its Engineer before being installed, and the said signals shall be located at the following crossings, viz.:

Federal Boulevard, Broomfield, Burns Junction, Goodview, Park Avenue, Marshall, an unnamed crossing three fourths of a mile south of Superior, and an unnamed crossing three fourths of a mile north of Superior, and shall be installed under the supervision of the Commission's Engineer within ninety (90) days from the date of this order.

IT IS FURTHER ORDERED, That the Defendant companies shall remove the electric bell now located at Broomfield and install the same at their railway crossing at

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grade at Westminster, Colorado.

IT IS FURTHER ORDERED, That the electric trains of The Denver & Interurban Railroad Company shall cross the nine railway crossings at grade above named at a speed of not to exceed ten (10) miles per hour, with the exception of the railway crossing at grade at Broomfield, at which point the railway trains of said company shall come to a complete stop before crossing the highway.

IT IS FURTHER ORDERED, That the motorman of the electric trains operated by The Denver & Interurban Railroad Company shall sound an audible signal before proceeding across the nine railway crossings at grade above named.

IT IS FURTHER ORDERED, That D. S. Hooker, the Commission's Engineer in charge of railways, together with E. F. Vincent, Chief Engineer of the Defendant companies, prepare for the Commission estimates of the cost of the elimination of the railway crossings at grade located at Burns Junction and Federal Boulevard, together with reports on the feasibility of the elimination of said crossings by separation of grades and the proper apportioning of the expense between the Defendant companies and the county or state, or county and state, in which the said railway crossings at grade are located.

IT IS FURTHER ORDERED, That Mr. Hooker and Mr. Vincent confer with the county commissioners of Boulder county and the State Highway Commission, and report upon the feasibility and the cost of altering State Highway No. 1 to the end that the course of said highway may be

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altered in such a manner as to eliminate the two
railway crossings at grade located at Burns Junction
and Broomfield.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

(S E A L)

S. S. Kendall
Geo. T. Bradley
M. H. Aylesworth

Commissioners.

Dated at Denver, Colorado,
this 16th day of September, 1916.

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ORIGINAL

At a General Session of the
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,
held at its office in Denver,
Colorado, on the 27th day of
September, 1916.

INVESTIGATION AND SUSPENSION DOCKET NO. 7.

IT APPEARING, that there has been filed with the Public Utilities Commission of the State of Colorado, tariff containing schedules stating rules and charges, to become effective October 10th, 1916, designated as follows:

F. G. Airy's Colo. P. U. C. No. 76, Local Tariff of Express Rates of the Adams Express Company, applying between stations in the State of Colorado located on the Denver and Salt Lake Railroad.

IT FURTHER APPEARING, that the said tariff makes certain changes and increases in the rules and charges for the intrastate transportation of express, and the rights and interests of the public appearing to be injuriously affected thereby, and it being the opinion of the Commission that the effective date of the schedules above specified, contained in said tariff, should be postponed pending hearing and decision thereon;

IT IS ORDERED, that the operation of the schedules above specified, contained in said tariff, be suspended, and that the use of the rates, charges, regulations and practices therein be deferred upon intrastate traffic until the eighth day of January, 1917.

IT IS FURTHER ORDERED, that the Secretary of this Commission be, and he is hereby, directed to serve upon the issuing agent and carrier of the above named tariff a certified copy of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

D. S. Stendall
Geo T. Bradley
M. H. Smith
Commissioners.

Dated at Denver, Colorado,
this 27th day of September, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

In the Matter of an Investigation and Hearing,)
on Motion of the Commission, into the adequacy)
of passenger train service, within the State) Case No.40.
of Colorado, on the lines of The Great Western)
Railway Company, a corporation,)

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

WHEREAS, on April 1st, 1915, in Case No.16, The Johnstown Commercial Club, Petitioner, vs. The Great Western Railway Company, Defendant, the Public Utilities Commission of the State of Colorado did make the following order:-

"It Is Hereby Ordered, That the Great Western Railway Company institute, maintain, and operate a passenger train service between Johnstown, Colorado, and Milliken, Colorado, each day except Sunday, on the following schedule:

Leave Johnstown at 8:25 a.m., Arrive At Milliken at 8:35 a.m.

Leave Milliken at 9:00 a.m., Arrive at Johnstown at 9:10 a.m.

Leave Johnstown at 5:50 p.m., Arrive at Milliken at 6:00 p.m.

Leave Milliken at 6:45 p.m., Arrive at Johnstown at 6:55 p.m.

It being the purpose of this schedule to make connections at Milliken with the trains of the Denver, Laramie & Northwestern Railroad to and from Denver.

This Order shall be in full force and effect on and after date and continue in force until September 1, 1915, unless sooner revoked by the Commission.

(SEAL)

S.S.Kendall,
Geo.T.Bradley,
M.H.Aylesworth,
Commissioners.

Dated at Denver, Colorado, this 1st day of April, 1915."

AND, WHEREAS, subsequent to September 1, 1915, after giving notice to the Commission, the defendant, The Great Western Railway Company, did publish and file with the Commission, in accordance with the laws of the State of Colorado, a different schedule of passenger train service than was ordered in the Commission's Order in Case No.16; and

WHEREAS, there have been numerous complaints as to the inadequacy and unreasonableness of this service, therefore

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IT IS ORDERED, that the Commission, on its own motion, institute an investigation into the adequacy of the passenger train service on the line of the defendant Company, and to establish a new and different schedule of passenger train service on the defendant's line of railroad in the event the Commission should determine that the present schedule of passenger train service is inadequate; that the said defendant be and it is hereby ordered to appear at the Hearing Room of the Commission, in the Capitol Building in the City and County of Denver, on the 4th day of October, 1915, at the hour of 2:00 o'clock p.m., before the Commissioners en banc, to make such defense to the above cause as may be thought necessary by the said defendant.

AND IT IS FURTHER ORDERED that the Secretary of this Commission be and he is hereby directed to serve upon the above named defendant a certified copy of this order, accompanied by a notice directing the said defendant to appear, at the time and place above specified, to take such part in said hearing as the said defendant may desire, and make such defense as shall appear necessary to the said defendant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

M. H. Ayler

Geo. I. Bradley

A. S. Keneale
Commissioners.

Dated at Denver, Colorado,
this 30th day of September, 1915.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

In the Matter of an Investigation and
Hearing, on motion of the Commission,
into the alleged illegal operation of
passenger and freight trains by one
or more of the following named common
carriers operating trains within the
State of Colorado, in violation of
Chapter 129, Page 516, of the Session
Laws of Colorado, 1913, and into the
necessity and feasibility of ordering
reasonable rules and regulations for
the safe operation of railway trains
by the defendant carriers:

September 30, 1916

Case No. 101

The Atchison, Topeka & Santa Fe Railway Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company, J. M.
Dickinson, Receiver,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company, Geo. W. Vallery, Re-
ceiver,
The Cripple Creek & Colorado Springs Railroad Company,
The Colorado, Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
Marshall B. Smith, Receiver,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company, B. F. Bush, Receiver,
The Rio Grande Southern Railroad Company,
The Uintah Railway Company,
Union Pacific Railroad Company.

----- NOTICE OF HEARING -----

To the above named Common Carriers:

You and each of you are hereby notified that
numerous complaints have been made to this Commission,
alleging that you and each of you are violating Chapter
129, page 516, Session Laws of Colorado, to-wit:

"Section 1. It shall be the duty of every railroad corporation, receiver or lessee thereof, operating any line of railroad in this State, within twelve months after the passage of this Act, to equip all locomotive engines used in the transportation of trains over said railroad with headlights of not less than 1200 candle power measured without the aid of a reflector. Provided, this Act shall not apply to locomotive engines which are regularly employed in yard service, and known as switch engines. And provided further, that this act shall not apply to engines running for a distance of not more than sixteen miles within the limits of this State, to complete their runs, nor to those used exclusively between sun-up and sun-down, nor to engines going to or returning from repair shops when ordered to such shops for repairs.

"Section 2. Any railroad company or the receiver or the lessee thereof, doing business in the State of Colorado, which shall violate the provisions of this act, shall be liable to the State of Colorado for a penalty of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1000.00) Dollars, for each and every locomotive not so equipped, counting each train hauled by such locomotive a separate and distinct offense, and such penalties shall be recovered and suit brought in the name of the State of Colorado in a court of proper jurisdiction, in any county in or through which such line of railroad may be operated,"

by operating certain locomotive engines used in the transportation of trains over your lines of railway that are not equipped with headlights of not less than 1200 candle power measured without the aid of a reflector, and that said locomotive engines are not engines regularly employed in yard service nor engines running for a distance of not more than sixteen miles within the limits of this State to complete their runs, nor those used exclusively between sun-up and sun-down, nor going to or from repair shops when ordered to such shops for repairs; and that certain of your trains are moved along your lines of railway from one point to another in an unsafe manner; and that this Commission has decided to investigate the same upon its own motion.

You are further notified that such investigation and hearing will convene at the Hearing Room of the Commission in the Capitol Building in the City and County of Denver, State of Colorado, at the hour of 10:00 o'clock a. m., on the 26th day of October, 1916. You are further notified to appear at such investigation and hearing and take such part therein and make such showing upon your own behalf as you may desire or your interests seem to require.

You are further notified that attached hereto is a certified copy of this Commission's order instituting the above investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,

By

George F. Caley
Secretary.

Dated at Denver, Colorado,
this 30th day of September, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

In the Matter of an Investigation and)
Hearing, on motion of the Commission,)
into the alleged illegal operation of)
passenger and freight trains by one)
or more of the following named common)
carriers operating trains within the)
State of Colorado, in violation of)
Chapter 129, page 516, of the Session)
Laws of Colorado, 1913, and into the)
necessity and feasibility of ordering)
reasonable rules and regulations for)
the safe operation of railway trains)
by the defendant carriers:)

Case No. 101

The Atchison, Topeka & Santa Fe Railway Company,
Chicago, Burlington & Quincy Railroad Company,
The Chicago, Rock Island & Pacific Railway Company, J. M.
Dickinson, Receiver,
The Colorado & Southern Railway Company,
The Colorado & Wyoming Railway Company,
The Colorado-Kansas Railway Company,
The Colorado Midland Railway Company, Geo. W. Vallery, Re-
ceiver,
The Cripple Creek & Colorado Springs Railroad Company,
The Colorado, Wyoming & Eastern Railway Company,
The Crystal River Railroad Company,
The Denver & Rio Grande Railroad Company,
The Denver & Salt Lake Railroad Company,
The Denver, Boulder & Western Railroad Company,
The Denver, Laramie & Northwestern Railroad Company,
Marshall B. Smith, Receiver,
The Great Western Railway Company,
The Midland Terminal Railway Company,
The Missouri Pacific Railway Company, B. F. Bush, Receiver,
The Rio Grande Southern Railroad Company,
The Uintah Railway Company,
Union Pacific Railroad Company.

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

WHEREAS, numerous complaints have been made to
this Commission, alleging that the above named common car-
riers operating trains within the State of Colorado are
violating Chapter 129, page 516, Session Laws of Colorado,
to-wit:

"Section 1. It shall be the duty of every railroad corporation, receiver or lessee thereof, operating any line of railroad in this State, within twelve months after the passage of this Act, to equip all locomotive engines used in the transportation of trains over said railroad with headlights of not less than 1200 candle power measured without the aid of a reflector. Provided, this Act shall not apply to locomotive engines which are regularly employed in yard service, and known as switch engines. And provided further, that this act shall not apply to engines running for a distance of not more than sixteen miles within the limits of this State, to complete their runs, nor to those used exclusively between sun-up and sun-down, nor to engines going to or returning from repair shops when ordered to such shops for repairs.

"Section 2. Any railroad company or the receiver or the lessee thereof, doing business in the State of Colorado, which shall violate the provisions of this act, shall be liable to the State of Colorado for a penalty of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1000.00) Dollars, for each and every locomotive not so equipped, counting each train hauled by such locomotive a separate and distinct offense, and such penalties shall be recovered and suit brought in the name of the State of Colorado in a court of proper jurisdiction, in any county in or through which such line of railroad may be operated,"

by operating certain locomotive engines used in the transportation of trains over their lines of railway that are not equipped with headlights of not less than 1200 candle power measured without the aid of a reflector, and that said locomotive engines are not engines regularly employed in yard service nor engines running for a distance of not more than sixteen miles within the limits of this State to complete their runs, nor those used exclusively between sun-up and sun-down, nor going to or from repair shops when ordered to such shops for repairs; and that certain of the trains of said common carriers are moved along their lines of railway from one point to another in an unsafe manner.

IT IS ORDERED, That the Commission, on its own motion, institute an investigation into such alleged illegal operation of passenger and freight trains by common carriers operating within the State of Colorado, in violation of

Chapter 129, page 516, of the Session Laws of Colorado, 1913, and into the necessity and feasibility of ordering reasonable rules and regulations for the safe operation of railway trains by the defendant common carriers; that the said defendant common carriers and each of them be and they are hereby ordered to appear at the Hearing Room of this Commission, in the State Capitol Building in the City and County of Denver, State of Colorado, on the 26th day of October, 1916, at the hour of 10:00 o'clock a. m., before the Commissioners en banc, to make such defense to the above cause as may be thought necessary by the said defendants.

AND IT IS FURTHER ORDERED, That the Secretary of this Commission be and he is hereby directed to serve upon the above named defendants a certified copy of this order, accompanied by a notice directing the said defendants to appear, at the time and place above specified, to take such part in said hearing as they may desire, and make such defense as shall appear necessary to the said defendant.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. S. Kendall

George T. Bradley

M. H. G. Hunt
Commissioners.

Dated at Denver, Colorado,
this 30th day of September, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

IN RE RULES REGULATING GAS, ELEC-)
TRIC AND WATER SERVICE OF ALL)
PRIVATELY OWNED AND MUNICIPAL-)
LY OWNED GAS, ELECTRIC AND WA-)
TER PUBLIC UTILITIES OPERATING)
WITHIN THE STATE OF COLORADO.)

Case No. 84

Submitted July 22, 1916

Decided October 5, 1916.

O R D E R

On the 7th day of July, 1916, at the hour of 10 o'clock a. m., after due notice to all gas, electric and water utilities operating in the State of Colorado, including municipally owned or operated utilities, the Commission held a hearing as to the reasonableness of a code prepared by the Commission prescribing rules regulating gas, electric and water service of all gas, electric and water public utilities, including municipally owned or operated utilities, operating within the State of Colorado. Prior to that date copies of the proposed code had been served upon all gas, electric and water utilities, both privately owned and municipally owned, operating within the State of Colorado, and at the hearing each public utility or municipality, through one or more representatives, was permitted to present evidence in criticism of the proposed code, and at the conclusion of the hearing, the Commission granted additional time to permit the filing with the Commission of additional written criticisms, objections and suggestions to the proposed code

of the Commission.

After a careful examination of the proposed code of the Commission, as well as the evidence submitted in the above cause, the Commission has decided upon a reasonable code of rules regulating gas, electric and water service of all privately owned and municipally owned or operated public utilities operating within the State of Colorado, in accordance with Section 31 of the Laws of the State of Colorado Pertaining to Public Utilities.

IT IS THEREFORE ORDERED, That the following code of reasonable rules and regulations pertaining to gas, electric and water service of all privately owned and municipally owned or operated public utilities operating within the State of Colorado, is hereby declared to be reasonable and shall be observed and followed by all gas, electric and water public utilities, including municipally owned or operated utilities operating within the State of Colorado.

IT IS FURTHER ORDERED, That this order shall take effect on the 1st day of January, 1917, and shall continue in force until suspended, modified or set aside by this Commission.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kenner
Chairman

Geo. T. Bradley

M. H. Smith
Commissioners.

Dated at Denver, Colorado,
this 5th day of October, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

RULES REGULATING GAS, ELECTRIC AND
WATER SERVICE.

GENERAL RULES.

APPLYING TO ALL GAS, ELECTRIC AND WATER
UTILITIES.

RULE 1.

APPLICATION OF RULES:-- (a) The following rules shall apply to any person, firm, corporation or municipality now or hereafter engaged as a public utility in the business of furnishing gas, electricity or water for domestic or commercial consumers within the State of Colorado.

(b) The adoption of these rules shall in no way preclude the Commission from altering or amending same in whole or in part or from requiring any other additional service, equipment, facility or standard, either upon complaint or upon its own motion, or upon the application of any utility. Furthermore, these rules shall not in any way relieve any utility from any of its duties under the laws of this State.

RULE 2.

DEFINITIONS:-- (a) The word "Utility" as used in these rules shall be construed to mean any person, firm or corporation engaged as a public utility, either municipally or privately owned, in the business of furnishing gas, electricity or water for domestic or commercial consumers within the State of Colorado.

(b) The word "Commission" as used in these rules shall be construed to mean The Public Utilities Commission of the State of Colorado.

(c) The word "Consumer" as used in these rules shall be construed to mean any person, firm or corporation supplied by any utility with gas, electricity or water.

RULE 3.

OPERATING SCHEDULES AND INTERRUPTIONS OF SERVICE:--

(a) Each utility shall adopt an operating schedule, and shall report the same, or any changes therein, to this Commission, indicating in any case where service is not rendered continuously, the time at which service is commenced, and the time at which it is discontinued. Any changes in such operating schedules shall be made only with the approval of this Commission.

(b) Each utility shall keep a record of all interruptions of service upon its entire system or major divisions thereof, including a statement of the time, duration and cause of any such interruption. Each utility shall, except for stations operated without attendants, also keep a record of the time of starting up or shutting down the central station or sub-station generating, transforming or pumping equipment, and the period of operation of all regulators used for the maintenance of constant gas or water pressure, or constant voltage of electricity supplied. This record shall include the readings taken periodically of station meters and switchboard instruments, which readings shall be taken with such frequency as the utility or the Commission may from time to time require.

(c) The record of interruptions of service and a statement of the operating schedules of the utility shall be open at all times to the inspection of the duly authorized representatives of this Commission.

RULE 4.

INSPECTION OF PLANT AND EQUIPMENT:-- Each utility shall inspect its plant and distributing equipment and facilities in such manner and with such frequency as is in accord with good practice, in order that the same may be maintained in proper condition for use in rendering safe and adequate service.

RULE 5.

TESTING FACILITIES:-- (a) Each utility shall provide such laboratory, meter testing shop and other equipment and facilities as may be necessary to make the tests required of it by these rules or other orders of this Commission. The apparatus and equipment so provided shall be of a form acceptable to this Commission, and it shall at all times be available for the inspection and use, on the premises of the utility, of the authorized representatives of this Commission.

(b) Each utility shall make such tests as are prescribed under these rules with such frequency and in such manner and at such places as may be approved by this Commission.

RULE 6.

RECORDS OF TESTS AND OF METERS:-- A complete record of the tests made under these rules of the quality and condition of service shall be kept by each utility. The record so kept shall contain full information concerning each test, including the date, and the place where the test was made, the name of the employe conducting the test, the result of the test, and such other information as may be required by these rules, or as this Commission may from time to time direct, or as the utility making the test may deem desirable.

(b) Whenever any service meter is tested the original test record shall be preserved, including the information necessary for identifying the meter, the reason for making the test, the reading of the meter if removed from service, and the result of the test, together with all data taken at the time of the test in sufficiently complete form to permit the convenient checking of the methods employed and the calculations made.

(c) A record shall also be kept indicating for each meter owned or used by any utility, the date of purchase, manufacturer's serial number, record of the use, and tests to which it has been subjected, and its present location.

RULE 7.

ACCIDENTS: -- Each utility shall as soon as possible report to this Commission each accident happening in connection with the operation of its property, facilities or service, wherein any person shall have been killed or

seriously injured, or whereby any serious property damage shall have resulted; such first report shall later be supplemented by as full a statement as is possible of the cause and details of the accident, and the precautions, if any, which have been taken to prevent similar accidents. Each utility shall further give all reasonable assistance to the Commission in the investigation of the cause and suitable means for the prevention of any such accidents in the future.

RULE 8.

COMPLAINTS:-- Each utility shall make a full and prompt investigation of all complaints made to it by its consumers, either directly or through the Commission, and it shall keep a record of all written complaints received, which shall show the name and address of the complainant, the date and character of the complaint, and the adjustment or disposal made thereof. This record shall be open at all times to the inspection of the duly authorized representatives of this Commission.

RULE 9.

INFORMATION FOR CONSUMERS:-- (a) Each utility shall at any time, on request, give its consumers such information and assistance as is reasonably possible in order that consumers may secure safe and efficient service and may secure lamps and appliances properly adapted to the service furnished. Each utility shall inform each consumer of any such change made or proposed to be made in any condition as to its service as would affect the efficiency of the service or the operation of the appliances or equipment which may be in use by said consumer.

(b) Each utility supplying metered service shall adopt some means of informing its consumers as to the method of reading meters, either by printing on its bills a description of the method of reading meters or a notice to the effect that the method will be explained upon application. It is recommended that an exhibition meter be kept on display in each commercial office maintained by a utility.

RULE 10.

METER READINGS AND BILL FORMS:-- (a) Each service meter shall indicate clearly the cubic feet, kilowatt hours, gallons or other units of service for which charge is made to the consumer. In cases where the dial reading of a meter must be multiplied by a constant to obtain the units consumed, the proper constant to be applied shall be clearly marked on the face or dial of the meter.

(b) Each utility shall, upon written request of any consumer, cause the meter reader reading the meter installed upon the premises of such consumer, to leave upon such meter a card or slip showing the date and time such reading was taken, and either the total reading expressed in cubic feet, kilowatt hours, gallons or other unit of service recorded by the meter read, or showing the position of the hands upon the dial of such meter at the time the reading was taken.

(c) All bills rendered periodically to consumers for metered service furnished shall show, in addition to the net amount due, the dates on which the readings were taken, the meter readings at the beginning and end of the period

for which the bill is rendered, when requested by the consumer or deemed necessary by the utility, and all other essential facts upon which the bill is based.

RULE 11.

METER RENTALS, AND CONSUMER'S DEPOSITS:--

(a) No meter rental, as distinguished from a minimum charge for service, shall be charged by any utility for any service meter installed by it for measurements upon which bills are rendered; provided, however, that in cases where service meters are used as sub-meters to a main meter, a rental charge for such sub-meter may be established with the approval of this Commission. The utility shall keep such sub-meters in good operating condition, but will not be required to keep a record of the monthly readings of these meters.

(b) Any utility may require at any time from any consumer or prospective consumer, a cash deposit intended to guarantee payment of current bills. Such required deposit shall not exceed the amount of an estimated ninety days' bill of such consumer, or in the case of a consumer whose bills are payable in advance, it shall not exceed an estimated sixty days' bill for such consumer. Interest shall be paid by the utility upon such deposits at the rate of six per cent. per annum, payable upon the return of the deposit or annually upon request of the consumer, for the time such deposit was held by the utility and the consumer was served by the utility, unless such period be less than six months; provided, further, that the rate of interest on such cash

deposits shall be only four per cent. per annum if the utility keep such cash deposits in a separate and distinct trust fund and deposited as such in some bank or trust company, and not used by the utility in the conduct of its business. Interest payments may, at the option of the utility, be made either in cash, or by a credit to the consumer's account. In computing interest no consideration need be given to fractional parts of months or dollars.

(c) Each utility having on hand such deposits from consumers, or hereafter receiving such deposits from consumers, shall keep records to show: (1) the name of each consumer making a deposit; (2) the premises occupied by the consumer when making the deposit and each successive premises occupied while the deposit is retained by the utility; (3) the amount and date of making the deposit; and (4) a record of each transaction, such as the payment of interest, interest credited, etc., concerning such deposit.

(d) Each utility shall issue to every consumer from whom such deposit is received a certificate of deposit.

(e) Each utility shall provide ways and means whereby a depositor who makes application for the return of his deposit or any balance to which he is entitled, but is unable to procure the original certificate of deposit, may not upon reasonable proof be deprived of his deposit or balance.

RULE 12.

FILING OF RATE SCHEDULES, RULES AND REGULATIONS:--

(a) Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions of lines and of all rules and regulations covering the relations of consumer and utility, shall be filed by each utility in the office of this Commission. Complete schedules, contract forms, rules and regulations, etc., as filed with the Commission shall also be on file in the local office of the utility and shall be open to the inspection of the public.

(b) A copy of this order shall likewise be on file in the office of the utility and open to the inspection of the public.

(c) The attention of the public shall be called to these files of schedules, rules and regulations, and orders, by placing a suitable placard in the office of the utility.

(d) If the reasonableness of any charge, rule, regulation or practice of any utility with reference to service connections or extensions, or of any rule covering the relations between consumer and utility, is challenged, the Commission will, upon complaint and investigation, prescribe the proper charge, rule, regulation or practice which shall thereafter be followed.

DISCONTINUANCE OF SERVICE:-- No utility shall discontinue the service of any consumer for violation of any rule of such utility except upon written notice of at least forty-eight hours, advising the consumer in what particular such rule has been violated for which service will be discontinued. This rule may be waived where a by-pass is discovered on a consumer's service meter, or in the event of the discovery of dangerous leakage or short circuit on a consumer's premises, or in the case of a consumer utilizing the service in such a manner as to make it dangerous for occupants of the premises, thus making an immediate discontinuance of service to the premises imperative.

RULE 14.

METERS AND SERVICE CONNECTIONS:-- (a) All meters used in connection with metered service shall be furnished, installed and maintained at the expense of the utility. Any appliance furnished at the expense of the utility shall remain its property and may be removed by it at any time after the discontinuance of service.

(b) Service connections to the consumer's premises in the case of electric utilities, and to the consumer's property line in the case of gas and water utilities, shall be installed and maintained at the expense of the utility. This rule shall not apply when unusual conditions are encountered, or to very long service connections. When such special cases arise, the Commission will, if necessary, prescribe the proper charge.

(c) Any utility may require through its Rules and Regulations that prospective consumers advance the full cost of service connections, the amount so advanced to bear no interest, and to be applied on the consumer's bills until such time as the amount of service furnished under the prescribed schedule of rates shall equal the amount so deposited. Such deposits shall not cover the cost of meters, since these may be recovered by the utility upon the discontinuance of service by the consumer. Any utility may likewise require such deposits from consumers whose service connections are replaced for any cause. It is further provided that no consumer's deposit or advance payment for service shall be required from consumers making deposits for service connections until such time as the amount so deposited for service connections shall have been exhausted.

(d) No utility shall require from any consumer or prospective consumer a deposit intended to pay for all or any part of the cost of extension of mains or the installation of service connections, except under Rules and Regulations set down in the public schedules of the utility on file with this Commission.

Note: The term "service connection" refers to that portion of the distribution system which is installed for the use of individual consumers or small groups of consumers and does not refer to mains installed on the streets or public highways. The Commission has not attempted to lay down rules governing the extension of mains, but desires that each utility file its practice regarding such extensions.

RULE 15.

PRACTICE UNDER THESE RULES TO BE FILED:-- Each utility shall file with this Commission within four months after receipt of this order, a statement, typewritten, properly identified and dated, and on 8 $\frac{1}{2}$ x 11 sheets, describing its practice under these rules as follows:

(a) Description of test methods employed and frequency of tests or observations for determining quality, voltage and pressure of gas, electric, and water service furnished.

(b) Description of meter testing equipment, including methods employed to ascertain and maintain accuracy of all testing equipment.

(c) Rules covering testing and adjustment of service meters when installed and periodic tests after installation.

Revisions in any portion of this statement after filing will necessitate the filing of an entire new statement, properly identified and dated, canceling the one on file.

RULE 16.

REPORTS TO COMMISSION:-- Each utility shall make special reports at such time and in such form as the Commission may from time to time require.

SPECIAL RULES.

GAS.

GAS.

RULE 17.

DEFINITION OF A CUBIC FOOT OF GAS:-- When the gas itself is to be tested under these rules, a cubic foot of gas shall be taken to be that amount of gas which occupies the volume of one cubic foot, saturated with water vapor, at sixty (60) degrees Fahrenheit, and under a pressure of thirty (30) inches of mercury. For the purpose of measurement of gas to a consumer, a cubic foot of gas shall be taken to be that amount of gas which occupies a volume of one cubic foot under the conditions existing in such consumer's meter as and where installed.

RULE 18.

HEATING VALUE OF GAS:-- Each utility furnishing manufactured gas shall supply gas which when tested within one mile of the manufacturing plant, shall give a monthly average total heating value of not less than 575 British thermal units per cubic foot and at no time shall the total heating value of the gas at such point fall below 525 British thermal units per cubic foot.

To obtain the monthly average total heating value of gas the results of all tests of the heating value made on any day during the calendar month shall be averaged, and the average of all such daily averages shall be taken as the monthly average. It is understood that gas of the heating value thus defined has a heating value per cubic foot as registered by the consumer's meter proportionately as much less than said 575 British thermal units per cubic foot as the total pressure of the gas in the consumer's meter is less than equivalent to thirty (30) inches of

mercury pressure.

RULE 19.

CALORIMETER EQUIPMENT:-- Each utility whose gas output exceeds twenty million cubic feet per annum, shall equip itself with a complete standard calorimeter outfit and all necessary accessories acceptable to this Commission, by which it shall determine the heating value of manufactured gas at least four days of each week. A complete record of these tests shall be kept for a period of not less than two years from the date of such tests.

RULE 20.

PURITY OF GAS:-- (a) All manufactured gas distributed in this state shall not contain more than a trace of hydrogen sulphide. The gas shall be considered as containing not more than a trace of hydrogen sulphide when a strip of white filter paper moistened with a solution containing five per cent. by weight of lead acetate is not distinctly darker than a second filter paper freshly moistened with the same solution after the first paper has been exposed to the gas for one minute in an apparatus of approved form through which the gas is flowing at the rate of approximately five cubic feet per hour, the gas not impinging directly from a jet upon the test paper.

(b) All manufactured gas distributed in this state shall contain in each one hundred cubic feet not more than thirty grains of total sulphur and not more than five grains of ammonia.

(c) Each utility supplying manufactured gas shall daily test the gas leaving its holders for the presence of hydrogen sulphide in the manner above specified. Each utility selling more than 75,000,000 cubic feet of manufactured gas per year shall provide and maintain such apparatus and facilities as are necessary for the determination of total sulphur and ammonia in gas, and each such utility shall regularly determine the amount of total sulphur and ammonia in the gas distributed by it; provided that any such utility supplying only water gas or oil gas or a mixture of these, shall not be required to provide apparatus or make determination of the amount of ammonia in gas.

RULE 21.

PRESSURE OF GAS:-- (a) Subject to the approval of this Commission each gas utility may divide its distributing system into as many districts as it shall consider desirable, and it shall fix for each such district or for its distributing system as a whole, the normal pressure of gas which it proposes to maintain.

Except by special permission from this Commission for the maintenance of a higher service pressure, gas shall not be furnished at less than equivalent to two inches, nor more than equivalent to eight inches of water pressure as measured at the outlet of the service connection to any consumer. The maximum pressure on any day at any consumer's service shall never exceed twice the minimum pressure at that outlet on that day.

(b) Each utility furnishing gas service in cities of 2,500 inhabitants or over shall maintain a graphic recording pressure gauge at its plant, downtown office, or at some central point in the distributing system, or each sub-division thereof, where continuous records shall be made of the service pressure at that point.

Utilities operating in cities of 5,000 or more inhabitants shall equip themselves with one or more graphic recording pressure gauges in addition to the foregoing, and shall make frequent records, each covering intervals of at least 24 hours duration, of the gas service pressure at various points on the system. All records or charts made by these meters shall be identified, dated and kept on file available for inspection for a period of at least two years.

RULE 22.

GAS METER ACCURACY AND TESTING:-- (a) Every gas service meter whether new, repaired or removed from service for any cause, shall be in good order and shall be adjusted to be correct to within one per cent. when passing gas at six cubic feet per hour per rated light capacity before being installed for the use of a consumer.

(b) No gas service meter hereafter installed shall be allowed to remain in service more than five years from the time when last tested without being re-tested and if necessary re-adjusted to be correct to within one per cent.

(c) During each period of twelve months after these rules take effect and until all meters now in service shall have been tested, each gas utility shall remove not less than twenty per cent. of all meters now in service, those longest in service to be removed first; such meters shall not again be placed in service until tested and made to comply with all provisions of this rule.

RULE 23.

METER TESTING ON REQUEST:-- Each gas utility furnishing metered gas service shall at any time when requested by a consumer make a test of the accuracy of any gas service meter free of charge; provided, first, that such meter has not been tested within the twelve months period prior to such request, and second, that the consumer will agree to accept the result of such test made by the utility as the basis for settling the difference claimed. No charge shall be made to the consumer for any such test except as may be allowed by the Commission in special cases. A written report giving the result of every such test shall be made to the consumer who requested it, the original record being kept on file at the office of the utility for a period of at least two years.

RULE 24.

TESTS BY COMMISSION:-- (a) Any gas service meter will be tested by an employe of the Commission upon written application by the consumer. The application for such test shall be accompanied by a remittance

of the amount fixed below as the fee for such test. If the meter is found to be fast beyond the limits prescribed in Rule 25, this fee shall be paid to the consumer by the utility; otherwise, these expenses shall be borne by the consumer requesting the test. The Commission's fees for gas meter tests are:

Not exceeding 10 lights capacity, each..\$2.00

Exceeding 10 lights capacity but not
exceeding 45 lights capacity, each.... 4.00

Exceeding 45 lights capacity, each..... 8.00

(b) Upon written application to the Commission by any gas utility the Commission will make a test on any of the utility's service meters upon payment of the scheduled fee.

RULE 25.

ADJUSTMENT OF BILLS FOR METER ERROR:-- (a) If on test of any gas service meter, on request of the consumer, either by the utility or the Commission, it be found more than two per cent. fast, the utility shall refund to the consumer such percentage of the amount of the bills of the consumer for the period of six months just previous to the removal of such meter from service, or for the time the meter was in service, not exceeding six months, as the meter shall have been shown to be in error by such test.

(b) If on test of any gas service meter, on request of a consumer, either by the utility or the Commission, it be found to be more than two per cent. slow,

the utility may collect from the consumer the amount estimated to be due for gas not charged for in bills rendered for not to exceed the six months period prior to such test.

(c) If a gas service meter is found not to register for any period the utility shall estimate a charge for the gas used but not metered by averaging the amounts used over similar periods preceding or subsequent thereto, or over corresponding periods in previous years.

RULE 26.

METER TESTING FACILITIES:-- Each utility having more than 200 gas meters in service shall maintain one or more suitable gas meter provers of standard design, and shall keep the same in proper adjustment so as to register the condition of meters tested within one-half of one percent. Each meter prover must be accompanied by a certificate of calibration indicating that it has been tested with a standard which has been certified by the National Bureau of Standards or some testing laboratory of recognized standing. Meter provers must be located in a large, comfortable working space, free from excessive temperature variations, equipped with all necessary facilities and accessories, and at all reasonable hours accessible for inspection and use by the duly authorized representatives of this Commission.

SPECIAL RULES.

ELECTRICITY.

ELECTRICITY

RULE 27.

ACCEPTED GOOD PRACTICE:-- The generating and distributing system including generating equipment, transmission lines, sub-stations, overhead system, poles, lines, transformers, underground system, manholes, conduits, etc., street lighting systems, service wires and attachments, meters and instruments, shall be constructed, installed and maintained in accordance with accepted good practice.

RULE 28.

POLE IDENTIFICATION:-- (a) In the case of two or more utilities jointly owning or using a pole or pole line structure, each of these utilities shall mark each such pole or structure with the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark by which the ownership of such structure may be readily and definitely determined.

(b) Each utility shall in the future mark each such pole, post or other structure used for supporting electrical conductors with "dating nails" or other approved devices which will indicate the year in which such structures were installed. It is suggested that a different type of dating nail be used for new poles or structures and for poles re-used. All poles or structures known to have been installed or replaced during the preceding year shall likewise be so marked.

(c) The requirements herein shall apply to all existing and future erected structures and to all changes in ownership.

RULE 29.

POLE INSPECTION:-- Each pole, post, tower or other structure used for the support or attachment of electrical conductors, guys or lamps, must be inspected by the utility owning or using it with sufficient frequency to determine the necessity for replacement or repair.

RULE 30.

GROUNDING OF LOW-POTENTIAL CIRCUITS:-- The rules currently in force contained in the National Electric Safety Code regarding grounding of low-potential circuits shall be followed for all new construction. Each utility shall adopt a plan whereby existing circuits will be grounded in conformity with this rule, and submit the same to this Commission for approval not later than June 1, 1917.

RULE 31.

STANDARD VOLTAGE AND PERMISSIBLE VOLTAGE VARIATION:--(a) Each utility shall adopt a standard average voltage or standard average voltages, as may be required by its distribution system, for its entire constant-voltage service, or for each of the several districts into which the system may be divided, and shall file with this Commission a statement as to the standard average voltage or average voltages adopted.

Every reasonable effort shall be made by the use of proper equipment and operation to maintain such voltage practically constant at all times. The suitability and adequacy of these service voltages may be determined at any time by this Commission. The voltage maintained at the utility's main service terminals* as installed for individual consumers or groups of consumers shall be reasonably constant as follows:

(1) For service rendered under a lighting contract or primarily for lighting purposes the voltage between 6:00 o'clock p. m. and 11:00 o'clock p. m., shall be within five per cent. plus or minus of the standard adopted, and the total variation of voltage from minimum to maximum during the hours above specified shall not exceed seven per cent. of the average voltage in cities and other incorporated places having a population in excess of 2,500, nor nine per cent. of the average voltage in all other places.

(2) For service rendered under a power contract or primarily for power purposes the voltage variation shall not exceed ten per cent. above or ten per cent. below the standard average voltage at any time when the service is furnished.

*The term "service terminal" refers to the point at which the utility's service connections terminate, at which point connection is made with the consumer's wiring, and beyond which the utility has no responsibility.

(3) A greater variation of voltage than that specified above may be allowed when service is furnished directly from a transmission line or in a limited or extended area where consumers are widely scattered and the business done does not justify close voltage regulation. In such cases the best voltage regulation should be provided that is practicable under the circumstances. This clause refers particularly to individual consumers or small groups of consumers whose service from a transmission line is incidental, and does not refer to the voltage regulation in communities, cities or towns for which the transmission line was primarily built.

(b) Variations in voltage in excess of those specified caused (1) by the operation of power apparatus on the consumer's premises, which necessarily requires large starting currents, (2) by the action of the elements, (3) by infrequent and unavoidable fluctuations of short duration due to necessary station or line operations, shall not be considered a violation of this rule.

(c) Utilities supplying power to one or more other electric utilities may make application to the Commission for a specific ruling applicable to each particular case.

RULE 32.

VOLTAGE SURVEYS AND RECORDS:-- Each utility shall provide itself with one or more portable indicating volt-meters and each utility serving more than 200 consumers shall have one or more recording volt-meters of the curve drawing type suitable for the service voltages

furnished. Each utility shall make a sufficient number of voltage surveys to indicate the character of service furnished from each center of distribution and to satisfy this Commission, upon request, of its compliance with the above voltage requirements. Utilities having curve drawing volt-meters shall keep at least one of these instruments in continuous service at the plant, office or some consumer's premises. All volt-meter records shall be available for inspection by the authorized representatives of this Commission for a period of at least two years from the date of such records.

RULE 33.

LOCATION OF METERS:-- (a) It is recommended that all meters hereafter installed on consumers' premises should be located in the cellar or on the first floor or as nearly as possible at the point of entrance of service to the premises, in a clean, dry, safe place not subject to great variations in temperature, and on a support free from vibration. When it is necessary to install meters out of doors they should be suitably protected from the elements and other sources of damage.

(b) Meters should not be placed in coal or wood bins or on the partitions forming such bins, nor on any unstable partitions or supports. Unless unavoidable, meters should not be installed in attics, sitting rooms, bath rooms, bed rooms, restaurant kitchens, over doors, windows, or in any location where the visits of the meter reader or tester will cause annoyance to or inconvenience the consumers.

(c) Meter locations should be such that they are easily accessible for reading, testing and making necessary adjustments and repairs. When a number of meters are placed on the same meter board the distance between centers should not be less than fifteen inches, and each meter loop should be so tagged or marked as to indicate the circuit metered. Meters should preferably be not less than four feet nor more than seven feet above the floor or a suitable platform.

RULE 34.

METER TESTING FACILITIES AND EQUIPMENT:-- (a)

Each utility furnishing metered electric service shall, unless specifically excused by the Commission, provide such meter laboratory, standard meters, instruments, and other equipment and facilities as may be necessary to make the tests required by these rules. Such equipment and facilities shall be acceptable to the Commission and shall be available at all reasonable times for the inspection of its authorized representatives.

(b) (1) Each utility furnishing metered electric service shall provide such portable indicating electrical testing instruments or watt-hour meters, switch-board instruments, recording volt-meters, and other electrical instruments in use, as may be deemed necessary and satisfactory by the Commission.

(2) For testing the accuracy of portable watt-hour meters, commonly called "rotating standards," and other portable instruments used for testing service meters,

each utility not specifically excused by the Commission, as provided for in Section (a) of this rule, shall provide as reference or check standards suitable indicating electrical instruments, watt-meters, watt-hour meters, or any or all of them hereafter called "reference standards." Such reference standards may be of the service type of watt-hour meters, but if so, such watt-hour meters shall be permanently mounted in the meter laboratory of the utility and be used for no other purpose than for checking rotating standards.

Reference standards of all kinds shall be submitted at least once each year to the Standardizing Laboratory of the University of Colorado, or to some laboratory of recognized standing, for the purpose of test and adjustment. Utilities maintaining standardizing laboratories will be permitted to make their own tests and certifications of reference standards, provided the instruments and methods in use are acceptable to the Commission.

(3) All portable watt-hour meters (rotating standards) shall be compared with the reference standards at least once a week for commutator types, and once in two weeks for induction types, during the time such portable standards are being regularly used. Unless accompanied by a calibration card, if such check shows any portable watt-hour meter to be in error more than one per cent. plus or minus at any load at which the standard will be used, the meter shall be tested, adjusted and certified in the Standardizing Laboratory of the University of Colorado or at some standardizing laboratory of recognized standing. Each portable watt-hour meter (rotating standard) shall at all times be accompanied by a certificate

or calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations shall be kept on file in the office of the utility.

(4) All portable indicating electrical testing instruments, such as voltmeters, ammeters and wattmeters, when in regular use for testing purposes, shall be checked against suitable reference standards at least once a week when continually in use, and if found appreciably in error at zero, or more than one per cent. of full scale value at commonly used scale deflections, shall, unless accompanied by a calibration card, be adjusted and certified in some laboratory of recognized standing.

RULE 35.

ACCURACY REQUIREMENTS FOR SERVICE WATT-HOUR METERS:-- (a) No service watt-hour meter that has an incorrect register constant, test constant, gear ratio or dial train, or that registers upon no load ("creeps"), shall be placed in service or allowed to remain in service without proper adjustment and correction.

(b) No service watt-hour meter that has an error in registration of more than plus two or minus three per cent. at light load, or plus or minus two per cent. at heavy load, shall be placed in service. Whenever on installation, periodic or any other tests, a meter is found to exceed these limits, it must be adjusted. A meter creeps when, with all load wires disconnected, the moving element makes one complete revolution in ten minutes or less.

(c) Light load shall be construed to mean approximately five to ten per cent. of the rated capacity of the meter. Heavy load shall be construed to mean not less than sixty per cent. nor more than one hundred per cent. of the rated capacity of the meter.

(d) Meters installed with instrument transformers or shunts shall be tested jointly with such transformers or shunts; otherwise the ratio of transformation of the transformers and the resistance of the shunts must have been previously determined within five years and be on file at the office of the utility for use in calculating the results of tests made. All such calibration tests must have been made by a laboratory of recognized standing or by the utility using apparatus and methods approved by this Commission.

RULE 36.

INSTALLATION TESTS:-- All service watt-hour meters shall be tested and adjusted to register accurately to within the limits specified in Rule 35 and to otherwise conform with the requirements of that rule, either before installation or within sixty days after installation. Each commutator meter and direct-current meter shall be tested and adjusted within sixty days after installation. Whenever possible all meters should be tested after being installed for service, at which time they should be checked for correct connection, suitable location and proper mechanical condition.

RULE 37.

PERIODIC TESTS:-- (a) All types of watt-hour meters installed upon consumers' premises shall be periodically tested according to the following schedule:

SCHEDULE FOR PERIODIC TESTING OF WATT- HOUR METERS

	: Rated capacity of meter : in amperes or kilovolt : amperes.	: To be tested : at least : once in every
Direct-current Meters.....	: Exceeding 500 amperes.....	: 12 months
	: 500 amperes to 15 amperes:	: 18 months
	: 15 amperes and less.....	: 24 months
Alternating-current Meters:	:	:
1. Single Phase.....	: Exceeding 25 amperes.....	: 24 months
	: 25 amperes and less.....	: 36 months
2. Polyphase.....	: Exceeding 50 kilovolt	:
	: amperes.....	: 12 months
	: 50 kilovolt amperes and	:
	: less.....	: 24 months

(b) All watt hour meters in service on and after January 1st, 1917, for which there is no record on file at the utility's office of tests made within the period of time specified for that class and rating of meter shall be tested as soon as possible. In no case shall the time subsequent to such test exceed the period of test for meters of that class and rating as specified in this rule.

RULE 38.

REQUEST TESTS:-- Each utility furnishing metered electric service shall make a test of the accuracy of any electric service meter free of charge upon request of a consumer; provided that the meter has not been tested within

the twelve months period prior to such request, and provided that the consumer will accept the results of such test as a basis for the settlement of the difference claimed. A written report giving the result of such test shall be made to the consumer requesting same, the original record being kept on file at the office of the utility for a period of at least two years.

RULE 39.

TESTS BY COMMISSION:-- (a) Any service watt-hour meter will be tested by an employe of the Commission upon written application by the consumer. For such test a fee shall be forwarded to the Commission by the party making application for the test, which fee shall be refunded to the consumer by the utility if the meter be found fast beyond the limits prescribed in Rule 40. The schedule of fees for Commission tests of watt-hour meters is as follows:

- (1) For continuous current and single phase meters operating on 600 volts or less, up to and including 25 amperes rated capacity of the meter element, each.....\$ 2.00
- (2) For each additional 50 amperes or fraction thereof..... 0.50
- (3) For single phase meters above 600 volts and for polyphase meters with or without instrument transformers up to and including 25 kilowatts rated capacity..... 3.00
- (4) For each additional 25 kilowatts rated capacity or fraction thereof.... 3.00

(b) Upon written application to the Commission by any electric utility, the Commission will make a test on any of the utility's service meters upon payment of the scheduled fee.

RULE 40.

ADJUSTMENT OF BILLS FOR METER ERRORS:-- (a) If on test of any service watt-hour meter, made upon the request of the consumer, by either the utility or the Commission, it is found to be more than three per cent. fast at any load, additional tests shall be made to determine the average error of the meter.

(b) Average Error: The average error of a meter in tests made by the Commission or the utility at the request of the consumer shall be defined as one-half the algebraic sum of (1) the error at light load, and (2) the error at heavy load.

(c) When a meter is found to have a positive average error; that is, is fast in excess of three per cent. in tests made at the request of the consumer by either the Commission or the utility, the utility shall refund to the consumer an amount equal to the excess charged for the kilowatt-hours incorrectly metered for a period equal to one-half of the time elapsed since the last previous test, but not to exceed six months.

(d) When a meter is found to have a negative average error -- that is, is slow -- in excess of three per cent. in tests made at the request of the consumer by either the Commission or the utility, the utility may make a charge to the consumer for the kilowatt hours incorrectly metered for a period equal to one-half of the time elapsed since the last previous test, but not to exceed six months.

(e) If a meter is found not to register for any period the utility shall estimate a charge for the kilowatt-hours used by averaging the amounts registered over similar periods preceding or subsequent thereto, or over corresponding periods in previous years.

RULE 41.

INSPECTION OF INCANDESCENT LAMPS:-- Each utility supplying electricity for incandescent lighting shall inspect in a general way the incandescent lamps of each consumer, to whom free lamp renewals are supplied, at least once every two years, and render its consumers reasonable assistance in securing incandescent lamps and other appliances best adapted to the service furnished. It should also see that lamps furnished consumers without charge or at prices less than the open market prices, shall be of such efficiency in watts per candle when used on the utility's circuits of standard voltage as defined in Rule 31, that the cost of light per candle power hour to consumers will not exceed the cost per candle power hour when incandescent lamps of like type are bought in the open market.

RULE 42.

STATION INSTRUMENTS AND WATT-HOUR METERS:-- Each utility shall install such curve drawing wattmeters, indicating instruments or watt-hour meters as may be necessary to obtain a daily record of the load, and a monthly record of the output of its plants. Each utility purchasing electrical energy shall install such instruments or watt-hour meters as may be necessary to furnish full information as to the monthly purchases.

SPECIAL RULES.

WATER.

WATER.

RULE 43.

PURITY OF WATER SUPPLY:-- (a) All water furnished by any utility for human consumption and general household purposes should be free from disease producing organisms, injurious chemical or physical substances, and agreeable to the sight and smell.

(b) Water which rarely shows the presence of the "B. Coli Group" and which has a reasonably low "Bacterial Count" under the usual standard test methods will ordinarily be considered safe from the standpoint of disease producing organisms.

RULE 44.

CHEMICAL AND BACTERIOLOGICAL ANALYSES:-- (a) Each utility furnishing water for human consumption or household purposes shall take a sample monthly, or as much oftener as this Commission or the State Board of Health may require, from the source of supply or any point in the service designated by this Commission or the State Board of Health, in accordance with the rules for sampling water as prescribed by the State Board of Health, and shall forward same to the State Chemist at Boulder, Colorado for test and analysis. Such test and analysis shall be made free of charge. The result of such test and analysis shall be recorded in triplicate, one copy to be furnished to this Commission, one to the State Board of Health and one to the utility.

(b) Each utility supplying water to a town or city of five thousand (5,000) inhabitants or more, according to the last census of the United States, shall provide and use suitable testing equipment for making proper tests for bacillus coli and other bacteria, and tests for turbidity and quantity of matter in suspension, whereby the water furnished by it to consumers shall be tested at least once a week and at such other times and whenever required by this Commission. The results of such tests shall be recorded in triplicate, one copy to be sent to the State Board of Health, one copy to be sent to this Commission and one copy to be retained by the utility.

The Commission reserves the right to require, under its supervision, an extended bacteriological as well as physical and chemical examination, when deemed advisable for any particular water furnished.

(c) The results of all tests made, either by the State Chemist or by the utility, shall be kept on file and available for public inspection for a period of at least two years. These records must indicate when, where and by whom each test was made. The standard methods of water analysis recommended by The American Public Health Association for 1912, except as hereinbefore provided, should be followed as regards chemical, physical and bacteriological examinations and collection of water, and any departure therefrom should be specifically stated.

(d) Whenever tests made by the State Chemist, by the utility, or for any other purpose disclose the presence of bacillus coli or a high bacterial count, the utility shall employ all reasonable means to make its

water supply safe for human and domestic purposes.

RULE 45.

OPERATION OF "DEAD ENDS":-- "Dead Ends" in the distributing mains should be avoided as far as possible. Where such "dead ends" exist, they should be flushed at least once each week. To insure compliance with this requirement, it is suggested that where feasible all "dead ends" be equipped with hydrants.

RULE 46.

ADEQUATE PRESSURE REQUIRED:-- Every effort shall be made to maintain a steady pressure which will not at any time fall below the fixed minimum for domestic service. In addition to furnishing commercial service, each utility furnishing fire hydrant service must be able at any time within reasonable notice to supply added fire service in accordance with the best standard practice covering service to local fire fighting equipment and facilities.

When the foregoing pressure requirements are outlined in a reasonable manner by the ordinances under which the utility operates, they should be complied with as set forth therein.

RULE 47.

PRESSURE SURVEYS:-- Each utility furnishing water service in cities of 1,000 inhabitants or more shall maintain a graphic recording pressure gauge at its plant, down-town office, or at some central point in the distributing system or each subdivision thereof, where continuous records shall be made of the pressure in the mains

at that point.

Utilities operating in cities of five thousand or more inhabitants shall equip themselves with one or more graphic recording pressure gauges in addition to the foregoing and shall make frequent records, each covering intervals of at least 24 hours duration, of the water pressure at various points on the system. All records or charts made by these meters shall be identified, dated and kept on file, available for inspection for a period of at least two years.

RULE 48.

METERS:-- No service water meter shall be allowed in service which has an incorrect gear ratio or dial train, or is in any way mechanically defective, or shows an error in measurement in excess of three per cent., plus or minus, when registering water at stream flow, equivalent to approximately one-tenth, one-half and full normal rating under average service pressure. When adjustment is necessary, such adjustment should be made as accurately as practicable for average rate of flow under actual conditions of installation. Tests for accuracy shall be made with suitable testing devices in accordance with the best modern water meter practice.

RULE 49.

PERIODIC TESTS:-- Unless otherwise ordered by the Commission each service water meter installed shall be periodically removed, inspected and tested in accordance with the following schedule, or as much oftener as the results obtained may warrant to insure compliance with the provisions of Rule 48.

Five-eighths inch meters, ten years, or for each 100,000 cubic feet of registration.

Three-fourths inch meters, eight years, or for each 150,000 cubic feet of registration.

One inch meters six years, or for each 300,000 cubic feet of registration.

All meters above one inch, every four years.

RULE 50.

REQUEST TESTS:-- Each Utility furnishing metered water service shall make a test of the accuracy of any service water meter free of charge upon the request of a consumer; provided that the meter has not been tested within the twelve months period prior to such request, and provided that the consumer will agree to accept the result of such test as a basis for the adjustment of the difference claimed. A written report giving the result of such request test shall be made to the consumer requesting same, the original record being kept on file at the office of the utility for a period of at least two years.

RULE 51.

TESTS BY COMMISSION:-- (a) Any service water meter will be tested by an employe of the Commission upon written application of the consumer for such test. For such test a fee shall be forwarded to the Commission by the consumer when making application, which fee shall be refunded to the consumer by the utility if the meter be found fast beyond the limits prescribed in Rule 52. The schedule of fees for Commission tests of water service meters is as follows:

For each meter not exceeding 1 inch
capacity..... \$2.50

For each meter exceeding 1 inch but
not exceeding 2 inches capacity... 4.00

For meters exceeding 2 inches capacity 8.00

(b) Upon written application to the Commission by any water utility, the Commission will make a test on any of the utility's service meters upon payment of the scheduled fee.

RULE 52.

ADJUSTMENT OF BILLS FOR METER ERRORS:-- (a) If on test of any service water meter, made upon the request of the consumer, by either the utility or the Commission, it is found to be more than four per cent. fast, additional tests shall be made to determine the average error of the meter.

(b) Average Error: The average error of a water meter in tests made by the Commission or the utility at the request of the consumer shall be defined as one-third of the algebraic sum of the errors when tested in accordance with Rule 47.

(c) When a meter is found to have a positive average error -- that is, is fast -- in excess of four per cent. on tests made at the request of the consumer by either the Commission or the utility, the utility shall refund to the consumer an amount equal to the excess charged for the water incorrectly metered for a period equal to one-half of the time elapsed since the last previous test, provided that this period does not exceed one year.

(d) When a water meter is found to have a negative average error -- that is, is slow -- in excess of four per cent. in tests made at the request of the consumer by either the Commission or the utility, the utility may make a charge to the consumer for the water incorrectly metered for a period equal to one-half of the time elapsed since the last previous test, provided that this period does not exceed one year.

(e) If a meter is found not to register for any period the utility shall estimate a charge for the water used by averaging the amounts registered over similar periods preceding or subsequent thereto, or over corresponding periods in previous years.

RULE 53.

METER TESTING EQUIPMENT:-- Each utility furnishing metered water service in cities of 1,500 or more inhabitants shall maintain suitable water meter testers and keep same in proper adjustment so as to accurately register the condition of the meters at all times.

Each water meter tester must be accompanied by a certificate of calibration indicating that the volumes or weighing devices used have been referred to proper standards, which standards have been certified by the National Bureau of Standards, or some testing laboratory or other authority of recognized standing.

Meter testers must be located in a large comfortable working space, easily accessible, and equipped with all necessary facilities and accessories. They must be available for inspection and use at all reasonable hours by the authorized representatives of this Commission.

MAKE NO
COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE CITY OF COLORADO SPRINGS,
Colorado,

Complainant,

-vs-

THE COLORADO SPRINGS & INTERURBAN
RAILWAY COMPANY,

Defendant.

October 13, 1916

Case No. 105

O R D E R

WHEREAS, on the 11th day of October, 1916, there was filed with the Commission by The Colorado Springs & Interurban Railway Company a new and different schedule of street railway service furnished by the said company on its line of railway within and between the following municipalities: Colorado Springs, Colorado City, Manitou, Ivywild, Cheyenne Canon, Broadmoor and Roswell, effective October 16, 1916, and

WHEREAS, the said schedule also contains a notice to the Commission and to the public discontinuing certain service heretofore rendered, and

WHEREAS, The City of Colorado Springs, thru its City Attorney, J. L. Bennett, Esq., has protested to the Commission as to the changes contemplated in the schedules and notice filed by The Colorado Springs & Interurban Railway Company,

IT IS THEREFORE ORDERED, that the effective date of said schedule be suspended until the 20th day of October, 1916, and that a hearing be held by the

Commission to investigate the reasonableness of the said schedule, at Colorado Springs, State of Colorado, at the Council Chamber of the City Council in the City Hall at the hour of 11 o'clock a. m., on the 17th day of October, 1916.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Keadle

Geo. T. Bradley

M. H. Hunter
Commissioners.

Dated at Denver, Colorado,
this 13th day of October,
A. D. 1916.

ORIGINAL

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE CITY OF COLORADO SPRINGS,
COLORADO,
Complainant,

vs.

THE COLORADO SPRINGS & INTERURBAN
RAILWAY COMPANY,
Defendant.

November 1, 1916

Case No. 105.

Appearances:

J.L.Bennett, Esq., City Attorney,
Chas.L.McKesson, Mayor,
For the Complainant,

B.F.Strickler, Esq., Attorney,
B.M.Lathrop, Superintendent,
For the Defendant company,

Case Submitted Oct. 23, 1916

Case Received Nov. 1, 1916

STATEMENT.

On the 11th day of October, 1916, there was filed with the Commission by The Colorado Springs & Interurban Railway Company a proposed schedule of street railway service between Colorado Springs, Colorado City, Manitou, Ivywild, Cheyenne Canon, Broadmoor and Roswell, a portion of which schedule was to be effective only during certain winter months and the remainder of which was to become a permanent schedule. The effective date of the proposed schedule, as filed with the Commission, was to be October 16, 1916.

Prior to the effective date a protest was filed with the Commission by J.L.Bennett, City Attorney of Colorado Springs, in behalf of the City Commissioners of Colorado Springs, against the proposed schedule of street railway service as filed by the Defendant Company.

On the 13th day of October, 1916, the Commission issued an order suspending the proposed schedule until the 20th day of October, 1916, and calling a hearing on an investigation into the

reasonableness of the said schedule to be held at Colorado Springs at the council chamber in the city hall at the hour of 11:00 o'clock a.m., on the 17th day of October, 1916.

At this hearing witnesses testified as to the various objections to the proposed schedule, and many suggestions were offered and adopted to the end that the proposed schedule might be improved for the better interests of the patrons of the Defendant company's railway line, and at the same time permit a schedule giving somewhat reduced service during winter months, as it was apparent and conceded that street car service on certain portions of the Defendant company's lines is not necessary during certain periods of the year, due to unusual conditions existing in this resort city and suburbs.

All objections were withdrawn after the suggestions had been adopted, with the exception of those to certain proposed changes in the service on the Wahsatch line and the Fontanero line.

The Wahsatch line of railway commences at the intersection of Tejon Street with Huerfano Street, thence eastward one block on Huerfano Street, thence one block northward on Nevada Avenue, thence two blocks eastward on Pike's Peak Avenue, thence six blocks northward on Wahsatch Avenue, thence one block eastward on Willamette Avenue, thence seven blocks northward on Corona Street, thence two blocks westward on San Miguel Street, thence three blocks northward on Weber Street, to Del Norte Street, and returns over the same route, with the exception that it runs three blocks westward on Pike's Peak Avenue to Tejon Street, thence one block southward on Tejon Street to the intersection of Tejon Street with Huerfano Street. The line extends two blocks farther north on Weber Street to Fontanero Street, but the present car service terminates at Del Norte Street. Two cars are operated over the line at present, furnishing a 15-minute service, and are of the four-motor type with air brake equipment, and seat thirty-six passengers.

The Fontanero line, otherwise known as the "golf club" line, begins at the intersection of North Tejon Street with Fontanero Street, from which point it runs eastward on Fontanero Street one mile to the Colorado Springs Golf Club, returning over the same route. At Weber Street, two blocks west of Tejon Street and the originating point of the Fontanero Street line, the Fontanero Street line passes the northern terminal of the Wahsatch line rails. The distance from the intersection of Tejon and Fontanero Streets to the Golf Club is one mile, and the 15-minute service is furnished by one car of a very old type, known as a "dinky" two-motor type, with hand brakes. The "golf club" line and the Wahsatch lines are single track lines, with the exception of short distances.

An examination of the proposed schedule filed with the Commission, and an examination of the witnesses for the Defendant company, developed the fact that the Defendant company desires to reduce certain costs of operation by installing 20-minute service on the Wahsatch line and extending the Wahsatch line to the Golf Club, thus retiring the "dinky" car and crews. It is the contention of the Company that the inauguration of 20-minute service upon the Wahsatch line, and the extensions of that line to the Golf Club terminal, will result in a reasonable service to the Wahsatch line patrons and in the improvement of service to those patrons living within the vicinity of the Golf Club, in what is known as Hastings Addition, while objectors and the representatives of the City of Colorado Springs maintained that while the discontinuance of the Fontanero line to the Golf Club and the accompanying extension of the Wahsatch line to the Hastings Addition and the Golf Club would improve the service on said line, the lengthening of the schedule from 15 to 20-minutes would result in unreasonable service and therefore is undesirable to the patrons of the Company.

At the conclusion of the hearing the Commission's Inspector, Mr. E. S. Johnson, and Chief Statistician, Mr. F. W. Herbert, made

a thorough examination of the service on the Wahsatch line and of the books and records of the Company.

On the 23rd day of October, 1916, the Commission received petitions signed by 775 patrons of the Defendant company praying for the continuation of the present 15-minute service on the Wahsatch line and requesting that the Commission order the Defendant company to extend the present Wahsatch line from the intersection of Corona and San Miguel Streets northward on Corona Street to Fontanero Street, and to permit the Company to abandon service on San Miguel Street between Corona Street and Weber Street, on Weber Street between San Miguel Street and Fontanero Street, and on Fontanero Street between Weber Street and Corona Street.

The Commission received petitions from patrons of the Wahsatch line objecting to this suggestion.

On the 23rd day of October, 1916, the following report was filed with the Commission by E.S.Johnson, its Inspector:-

" October 23, 1916.

In compliance with your request, I have made a thorough examination into the proposed change in street railway service furnished by The Colorado Springs & Interurban Railway Co., on the Wahsatch and Fontanero (Golf Club) Street lines, and beg to report as follows:

Commencing at the intersection of Tejon Street with Huerfano Street, the Wahsatch line runs one block east on Huerfano Street, thence one block north on Nevada Avenue, thence two blocks east on Pike's Peak Avenue, thence six blocks north on Wahsatch Avenue, thence one block east on Willamette Avenue, thence seven blocks north on Corona Street, thence two blocks west on San Miguel Street, thence three blocks north on Weber Street, to Del Norte Street. Returns over same route, except runs three blocks west on Pike's Peak Avenue to Tejon Street, thence one block south on Tejon Street, to intersection of Tejon Street with Huerfano Street. Line extends two blocks further north on Weber Street to Fontanero Street, but cars at present run only to Del Norte Street.

Distance from Huerfano and Tejon Streets to Del Norte Street is 2.3 miles. Present running time is 15 minutes; being 9.2 miles per hour. Two cars are operated over this line at present, furnishing a 15 minute service. Cars are of the four motor type, air-brake equipment, and seat 36 passengers.

The originating point of the Fontanero Street (Golf Club) line is at the intersection of North Tejon Street with Fontanero Street, from which point it runs east on Fontanero Street one mile to the Colorado Springs Golf Club; returning over the same route. At Weber Street, two blocks west of Tejon Street (its originating point) the Fontanero Street (Golf Club) line passes the northern end of the Wahsatch

Distance from Tejon and Fontanero Streets to Golf Club loop is one mile. One car, furnishing a 15 minutes service, is in operation on this line. Car is of the very old (dinky) type, hand-brakes, two motor type. Golf Club line is single-tracked as is the Wahsatch line, except for a short distance.

During my investigation I made a thorough examination of the original trip sheets on these lines covering the winter months and showing number of passengers carried each trip. Also investigated the total number of passengers carried daily, monthly and yearly since 1914, inclusive. I also investigated the operation of these cars, making daily trips over them at different periods of the day; also inspected, on foot, the territory adjacent and tributary to these lines.

As a result of the above investigation, I recommend that the Wahsatch Street line be extended from Weber Street and Del Norte Street to the Golf Club, and service on week days on extended line be rendered as follows:

From Huerfano and Tejon Streets to the Golf Club, every 20 minutes, except between the hours of 4:30 p.m. and 6:30 p.m., when 15 minute service must be rendered; first car to leave Huerfano and Tejon Streets not later than 6:05 a.m., and last car leave at 11:05 p.m., or later.

Sunday service from Huerfano and Tejon Streets to Gold Club to be rendered every twenty minutes from 7:05 a.m. (or earlier) until 11:05 p.m., (or later).

Operation of the Fontanero Street (Golf Club) line be discontinued, as adequate service will be rendered by the Wahsatch car over the same tracks, except for two blocks from North Tejon Street to Weber Street.

While inspecting the present route of the Wahsatch Street line, in company with officials of the Colorado Springs & Interurban Railway Company, my attention was called to the feasibility of extending the present car line straight north on Corona Street from San Miguel Street to Fontanero Street, thence east to Golf Club. At the intersection of Corona and San Miguel Streets the present line turns off Corona Street and runs two blocks west on San Miguel Street, thence north on Weber Street to Fontanero Street, running parallel to and only two blocks east of North Tejon Street car line. By extending the line straight north on Corona Street, the territory tributary to the North Tejon and Wahsatch lines would be more evenly divided and better service could be rendered to a greater number of people. As this change would mean the abandonment of the line running north on Weber Street from San Miguel to Fontanero Streets, the patrons of the railway living on this street would undoubtedly raise a strenuous protest, in spite of the fact that the distance would only be two blocks to the North Tejon Street car line.

This routing would decrease the distance to the Golf Club by four blocks and consequently would give more frequent service; in place of the twenty-minute service, fifteen-minute service could be rendered.

By extending this line north on Corona Street it would have to cross the Santa Fe railway track at Columbia Street. To adequately protect this crossing the interlocking plant now located at Fontanero Street could be moved to this point, as the old crossing would be abandoned under this plan.

Respectfully submitted,

E.S. Johnson,

Inspector."

On the 23rd day of October, 1916, the following report was filed with the Commission by its Chief Statistician, Fred W. Herbert:

"

October 23, 1916.

Following your instructions, I made an investigation in the matters which you requested in Case No. 105 of the Colorado Springs Interurban Railway Company. I gave particular attention to the investigation relative to the operation of Wahsatch and Fontanero Street lines.

The company's exhibit No. 14 in this case gives very clearly the development of the operation of the Fontanero Street line and the Wahsatch line as now operated for the year 1915. I have carefully checked these exhibits with the records of the Company at Colorado Springs, and I find these exhibits as to figures correct and correspond with the records of the Company.

I wish to call your attention to the figures submitted on the Fontanero Street line, in which they have included the cost of operating the interlocker on Fontanero Street. The entire amount of the operation of the interlocker should not be charged to the Fontanero line, inasmuch as the Classification of Accounts of the Interstate Commerce Commission provides that all interlockers shall be charged to the General Transportation Account, so this amount has been considered previously in the operating expenses allocated over the whole system, and the total should not be charged entirely to the Fontanero Line.

Conceding that these statements are correct, the operation of the two Lines will show a loss as follows:

Fontanero Line	\$4,260.25
Wahsatch Line, ...	6,787.88

Total,	\$11,048.13

As I understand, the proposition, as now presented, anticipates abandoning the Fontanero Street line entirely, which is a dinky line operated from North Tejon Street to the Golf Links only, and it is the intent to operate the Wahsatch line from its present destination, which at the present time is Del Norte and North Weber Street to the Golf Club, and abandon the Fontanero line.

I have developed the operating cost of the operations of the Wahsatch line from the Loop at Huerfano Street to the Golf Links on a 20 minute schedule during the day, and a 15 minute schedule from 4:55 p.m. to 6:55 p.m., namely, the rush hours. This development shows by adding the additional miles on the operation of the Wahsatch line, assuming that there will be practically the same revenue, and the additional operating expense of additional mileage would give a net loss on the operation of the Wahsatch line of \$8,249.07.

The loss at the present time on the operation of the Wahsatch line to Del Norte and North Weber and the Fontanero line from North Tejon to the Golf Club amounts to \$11,048.13.

The new schedule on the Wahsatch line, which will take care of the Fontanero line's operations, amounts to \$8,249.07, being a difference or saving in operation of \$2,799.06.

But allowing for contingencies and omissions in estimating and the possibility of an increase in traffic on the Wahsatch line, the saving to the Railway Company by operating the Wahsatch line through to the Golf Club and abandoning the Fontanero line will be approximately \$3,000.00.

In a statement accompanying this report, I give you the income and operating expenses of the entire company for the year 1915, as you requested, such statement practically ex-

plains itself and is in accordance with the books of the Company for that year.

Respectfully submitted,

Fred W. Herbert,
Statistician."

WAHSATCH LINE

12 months --- Year of 1915.

Mileage, Wahsatch car, 1915,..... 113,765

Ton Miles operated: Car.....2,218,417

Ton Miles operated: Passengers, estimated,.... 48,191

Total Ton Miles,.....2,266,608

Cost of Hauling,.....\$20,399.48

Wages of Men,..... 7,385.60

Cost of operating car,.....\$27,785.08

Receipts,..... 20,997.20

Loss,..... \$ 6,787.88

FONTANERO LINE

Mileage, Fontanero Car 1915,..... 49,960

Ton Miles operated: Car..... 404,676

Ton Miles operated: Passengers, estimated,..... 3,500

Total Ton Miles,..... 408,176

Cost of hauling,..... \$ 3,673.00

Wages of Men,..... 1,902.00

Cost of Operating Car,..... \$5,575.00

Cost of operating interlocker 1,041.86

Total cost,..... \$6,616.86

Receipts,.....\$1,314.75

Loss,..... \$5,302.11

Deduct operating interlocker, \$1,041.86

\$4,260.25

THE COLORADO SPRINGS & INTERURBAN RAILWAY CO.

Statement for Year 1915.

Total Revenue on Operation,.....\$400,909.85

Total Operating Expense,..... 280,262.21

Net Operating Income,..... \$120,647.64

Non Operating Revenue,..... 8,762.75

Other Revenue, Auxiliary,..... 5,289.88

Total,..... \$134,700.27

Deductions:

Taxes,.....\$37,695.23

Depreciation, 50,000.00..... 87,695.23

Net available for Interest and Return,.....\$ 47,005.04

Yearly Interest on Bonded Debt,.....\$ 80,000.00

On the 20th day of October, 1916, the Commission permitted the Defendant company to file an amended winter schedule of service, with the exception of a proposed permanent change in the service on the Wahsatch line from a 15-minute service to a 20-minute service, with service on said line extended to the Golf Club. This portion of the amended proposed schedule was further suspended until the 1st day of November, 1916.

The discontinuance of the Fontanero line, which now is operated by a two-motor car, and the substitution therefor of an extension of the Wahsatch line service over the tracks of what now is known as the Fontanero line and a resultant 20-minute service on the extended Wahsatch line, are proposed by the company on the grounds that this change in operation will bring about an estimated saving of \$3,000.00 per annum.

It is alleged by the Defendant company that the Wahsatch line and the Fontanero line are being operated at a loss, and that the proposed change in service on these lines is justified when the revenues of the Company are considered. The Public Utilities Law provides that every public utility under the jurisdiction of the Commission must furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the health, comfort and safety of its patrons, employees and the public, and as shall in all respects be efficient, adequate, just and reasonable.

Therefore, while it is true that the Commission will give serious consideration to the revenues of the Defendant company and to the alleged losses in the operation of the Wahsatch and Fontanero lines, this loss is not a controlling factor, as it is true also that the fact that the revenues from a particular branch line of a system of railway are inadequate is not of itself sufficient to justify an abandonment of service or of tracks, nor to justify any materially reduced service which would result in inadequate service on that branch line. In other words, the entire system and its earnings must be considered in consideration

of the question of service upon any portion or branch of that system.

Informal complaints have been filed with the Commission requesting that the Commission issue an order to the Defendant company requiring the building of certain tracks on certain streets within the City of Colorado Springs, which would result in the abandonment of existing service. The Commission is without power in this case to grant the request prayed for, as those matters are not now before us, but the same are being investigated by the Commission at this time, and, in the event the suggested changes seem reasonable and justifiable, the Commission will initiate a complaint to determine a proper course for the Defendant company to pursue.

After a careful study of the evidence the Commission is of the opinion that the car now operating on Fontanero street to the Golf Club, should be discontinued, and that the Wahsatch line be extended and operated on and over the tracks of the Fontanero line to the Golf Club. This change in service will result beneficially to the patrons of the Defendant company living in Hastings' Addition and those riding to and from the Golf Club. The Commission is of the opinion that the Wahsatch car should be operated on a 20-minute schedule, except between the hours of 4:30 p.m. and 6:30 p.m., during which period the Company should render 15-minute service; that the Wahsatch line should leave Huerfano and Tejon Streets at a time not later than 6:05 a.m., and that the last car should leave this point at not earlier than 11:05 p.m.; that on Sunday the Wahsatch car should be operated on a 20-minute schedule from Huerfano and Tejon Streets over the Golf Club line, beginning at 7:05 a.m., and the service terminating with the car leaving Huerfano and Tejon Streets not earlier than 11:05 p.m.

It is the opinion of the Commission that this schedule will result in adequate service, but should subsequently reports of inspectors of the Commission, who will be ordered to closely observe the working of this schedule, prove that adequate service

is not being rendered on the Wahsatch line under this order, the Commission will make further orders in the premises.

O R D E R.

IT IS THEREFORE ORDERED, That the service of the Defendant company on the Wahsatch line be extended from its present terminus, the intersection of Weber and Del Norte Streets, northward on Weber Street to Fontanero Street and thence eastward on Fontanero Street to the Golf Club, and that service on the extended Wahsatch line shall be rendered as follows:

On Week Days: From the intersection of Huerfano and Tejon Streets to the Golf Club; and, returning, from the Golf Club to the intersection of Huerfano and Tejon Streets; every 20 minutes, except between the hours of 4:30 p.m. and 6:30 p.m., during which time 15-minute service shall be maintained. The first car; daily, except Sundays; shall leave the intersection of Huerfano and Tejon Streets at 6:05 o'clock a.m., and the last car shall leave the intersection of Huerfano and Tejon Streets not earlier than 11:05 o'clock p.m.

On Sundays: From the intersection of Huerfano and Tejon Streets to the Golf Club; and, returning, from the Golf Club to the intersection of Huerfano and Tejon Streets; every 20 minutes, beginning not later than 7:05 o'clock a.m., and the last car leaving the intersection of Huerfano and Tejon Streets not earlier than 11:05 o'clock p.m.

IT IS FURTHER ORDERED, That the Fontanero Street (Golf Club) line may be discontinued.

IT IS FURTHER ORDERED, That passing tracks be constructed on the extended Wahsatch line at such points as may be found to be necessary for the carrying out of the provisions of this order,

and that the plans for the same be submitted to this Commission for approval.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. S. Kinsler

Geo. T. Bradley

M. H. Ayler
Commissioners.

Dated at Denver, Colorado,
this 1st day of November, 1916.

ORIGINAL

Before the
PUBLIC UTILITIES COMMISSION
of the
STATE OF COLORADO.

IN RE ADVANCES IN EXPRESS COMMODITY RATES.

INVESTIGATION AND SUSPENSION DOCKET NO. 5.

SUPPLEMENTAL ORDER.

Submitted July 18, 1916.

Decided November 24, 1916.

By the Commission:

This supplemental order is issued in connection with an investigation as to the reasonableness of proposed changes in the commodity rates of the express companies within the State of Colorado, which were filed with the Commission to become effective June 1, 1916 and suspended by the Commission pending an investigation into the reasonableness of the changes. On August 23, 1916 the Commission issued its first order in this cause, by which all of the proposed changes were found to be reasonable with the exception of the schedules on laundry, and on fruits and vegetables as specified in sections 3 and 4 of F. G. Airy's Tariff Colo. P. U. C. No. 73. The rates and minima on commodities other than as above specified were allowed to become effective August 30, 1916 and the suspension thereon was vacated as of that date. The changes on laundry, fruits and vegetables were further suspended by the Commission until the 28th day of November, 1916, pending a further investiga-

tion on the part of the Commission as to the reasonableness of such changes.

The Commission has carefully checked the rates on laundry in the proposed schedules and is of the opinion that such changes are warranted and reasonable, and so finds. If allowed to become effective the new rates will not place any burden on the shipper of laundry as there is no change in the minimum, and, as practically all shipments of laundry average fifty pounds or less per shipment no change in charges will result. The order of suspension existing against the schedules on laundry will, therefore, be vacated as of November 28th, 1916.

In checking the proposed changes in rates and minima on fruits and vegetables the Commission finds that very few changes are proposed in the rates. The only increase is that made to Greeley from the Western Slope points, the present rates being cancelled and the class rates made applicable. On the other hand, the proposed schedules make reductions from the Western Slope points to San Luis Valley points. The Commission is of the opinion that the proposed changes in rates on fruits and vegetables are warranted and therefore will allow same to become effective as of November 28, 1916.

The only remaining question then, is that of the reasonableness of a proposed change in minima on fruits and vegetables. Under the present tariffs the rates on less than carload shipments are based on 1500 pounds as a minimum. The proposed schedules carry a minimum of 2,000 pounds.

As a justification for the change in this minimum the express companies cite the opinions of the Interstate Commerce Commission in reference to any quantity rates.

In 1915 Western Rate Advance Case - Part II, 37 I.C.C.

114 (155) the following is found:

"As to many of these articles the respondents propose to cancel the present effective any-quantity rates upon shipments of less than 10,000 pounds, leaving class rates to apply to such shipments, the present rates, however, to continue in effect as to lots of 10,000 pounds or more. We have repeatedly held that the mere fact that certain traffic is hauled in trainload lots does not authorize the application to such traffic of a basis of rates different from that applied to traffic of the same kind when shipped in single carloads. * * * * *

"Applying here the principle on which those decisions were based, we are of opinion that the rate per 100 pounds or per ton on less-than-carload shipments of this general character can not lawfully vary with the quantity shipped. The respondents have not justified the proposed cancellation of the any-quantity rates, and the schedules providing for the same must be cancelled."

While it is not necessary for this Commission to herein express its view of the soundness of the above citation, yet it can have little bearing as an argument for the justification of a change in minimum. The express companies do not propose to cancel their any-quantity rates, but to change the minimum on which the any-quantity rates are applicable. If the 1500 pound any-quantity rate is not lawful, as stated by the representative of the respondents, then the 2,000 pound any-quantity rate is clearly not lawful. The Commission while not expressing any opinion as to the validity of any-quantity rates, as this question is not properly before it, finds that the respondents have not justified the advance in minimum from 1,500 pounds to 2,000 pounds, on fruits and vegetables as shown in sections 3 and 4 of F. G. Airy's Colo. P.U.C. No. 73. A permanent order of suspension will be issued deferring the operation of the increase in minimum.

As stated in the first order of the Commission

in this cause, the view is held that the changes in rates will not result in any undue discrimination or prejudice, and that if it later develops that discrimination does result from the application of the new rates, such inequality will promptly be adjusted. With the exception of the increase in minima on fruits and vegetables, the Commission finds that the new schedule, F. G. Airy's Colo. P. U. C. No. 73, is justified, but that the order of the Commission does not prejudice the right of any party to bring a formal complaint at any time against the reasonableness of any rate or rates contained in said schedule.

O R D E R.

IT APPEARING that, by orders dated May 6, 1916 and August 23, 1916, the Commission entered upon a hearing and investigation concerning the propriety of the increases and the lawfulness of the rates, rules, regulations and practices as applicable to laundry, fruits and vegetables, stated in schedules enumerated and described as F. G. Airy's Colo. P.U.C. No. 73; supplement 15 to Colo P.U.C. No. 26 and supplement 6 to Colo. P.U.C. No. 32 of the Wells Fargo & Company Express; supplement 20 to Colo. P.U.C. No. 33, supplement 12 to Colo. P.U.C. No. 69 and supplement 2 to Colo. P.U.C. No. 94 of the Wells Fargo & Company Express (Globe Express Company issues), and ordered that the operation of the said schedules be suspended until November 28, 1916;

IT FURTHER APPEARING that an investigation of the matters and things involved has been had and the Commission on the date hereof has made and filed a report containing its findings of fact and conclusions thereon:

IT IS ORDERED, That the orders heretofore entered in this proceeding suspending the operation of said schedules (except insofar as they apply to the minimum on fruits and vegetables on any-quantity shipments as set forth in sections 3 and 4 of F. G. Airy's Colo. P.U.C. No. 73) be, and they are hereby, vacated and set aside as of November 28th, 1916;

IT IS FURTHER ORDERED, That the operation of the proposed change in minimum from 1,500 to 2,000 pounds on fruits and vegetables as set forth in sections 3 and 4 of F. G. Airy's Colo. P.U.C. No. 73, contained in said schedules, be permanently suspended.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,

J. J. Kendall

George T. Bradley

M. H. G. Lunn

Commissioners.

Dated at Denver, Colorado,
this 24 day of November, 1916.

ORIGINAL

MAKE NO

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

COPY

CITIZENS OF GRAND LAKE, COLORADO,
BELLE KAUFFMAN, et al,
Complainant,

vs.

THE DENVER & SALT LAKE RAILROAD
COMPANY,
Defendant.

November 29, 1916

Case No. 110.

NOTICE OF HEARING.

To the above:

The Denver & Salt Lake Railroad Company, -

You are hereby notified that petitions have been received by the Commission praying that the discontinuance of daily passenger train service on your line of railway, as set forth in your notice filed with the Commission on November 22, 1916, be not allowed by the Commission, and that this Commission has decided to investigate the same upon its own motion.

You are further notified that such investigation and hearing will convene at the Hearing Room of the Commission in the Capitol Building in the city and county of Denver, Colorado, at the hour of 10:00 o'clock a.m., December 5, 1916. You are further notified to appear at such investigation and hearing and take such part therein and make such showing upon your own behalf as you may desire or your interests seem to require.

You are further notified that attached hereto is a certified copy of this Commission's order instituting the above investigation and hearing.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

By

George F. Wiley
Secretary.

Dated at Denver, Colorado,
this 29th day of November, 1916.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

CITIZENS OF GRAND LAKE, COLORADO,
BELLE KAUFFMAN, et al.,

Complainants,

vs.

Case No. 110.

THE DENVER & SALT LAKE RAILROAD COMPANY,

Defendant.

INVESTIGATION ON THE COMMISSION'S OWN MOTION.

WHEREAS, on the 22nd day of November, 1916, The Denver & Salt Lake Railroad Company filed with this Commission a written notice, in accordance with the Commission's General Order No. 7, stating that effective December 3rd, 1916, and until the month of April, 1917, The Denver & Salt Lake Railroad Company intended to discontinue daily passenger train service on trains Nos. 1 and 2, and to operate the same upon a tri-weekly basis leaving Denver on Monday, Wednesday and Friday and returning on Tuesday, Thursday and Saturday of each week, and stating its reasons for the discontinuance of said daily passenger train service.

WHEREAS, on the 25th day of November, 1916, the Commission acknowledged the receipt of the notice, so filed by The Denver & Salt Lake Railroad Company, as follows:

"Denver, Colorado, Nov. 25, 1916.

Mr. W. H. Paul, G. P. and P. A.,
The Denver & Salt Lake Railroad Company,
Denver, Colorado.
Dear Sir:

This will acknowledge receipt of your letter of the 22nd inst., notifying the Commission that effective December 3rd your Company desires to reduce its passenger train service on trains Nos. 1 and 2 to an alternate day service except Sundays.

The Commission will accept this as the required notice and will permit same to become effective, unless complaints are lodged with the Commission. In event of complaint being made, the Commission, of course, will find it necessary to hold a hearing and determine the matter upon its merits and in accordance with the testimony offered.

Your company, of course, will post the notices required by law in each station along the line of your railroad.

Yours very truly,

The Public Utilities Commission
of The State of Colorado

By G.F.Oxley,
Secretary."

GFO BM.

WHEREAS, on the 29th day of November, 1916,
there was filed with the Commission the following petition:-

"Having learned through the 'Middle Park Times' that The Denver and Salt Lake R.R. is considering running trains only three times a week after December 4, we, the undersigned citizens of Grand Lake and vicinity, do hereby petition you to intervene with the Railroad not to discontinue the six-times-a-week service, as this would work great hardship upon us in regard to receiving and sending mail.

Belle Kauffman	Mary A. Smith	Mary L. Cairns
Georgie Eslick	Mrs. L.A. Husted	L.A. Husted
Miss Mabel E. Slick	Leona M. Lehmkuhl	T.P. Lehmkuhl
Mrs. E.B. Smith	Mrs. J.L. Ish	Mrs. A. Lehman
E.H. Kauffman	Geo. Frickey	A.A. Earheart
H.G. Beehler	Fred Thompson	P.H. Smith
E.B. Smith	W.H. Behr	H.M. Harbison, P.M.
Frank Miner	Reed A. Higby	R. Jack Dillon
Axel Johnson	R.A. Harbison	T. Nelson."

WHEREAS, The Commission has decided to hold a hearing and investigate the proposed discontinuance of daily passenger train service on The Denver & Salt Lake Railroad, at which hearing all parties may be present and submit such evidence as they may desire for the consideration of the Commission.

IT IS THEREFORE ORDERED, that the parties in interest in said case appear before the Commission at its hearing room in the State Capitol Building in the City and County of Denver, Colorado, at the hour of 10:00 o'clock a.m., on December 5, 1916, and submit such evidence to the Commission as their interests seem to require.

AND IT IS FURTHER ORDERED that the Secretary of the Commission be and he is hereby directed to serve upon the parties a certified copy of this order, accompanied by a notice directing them to appear, at the time and place above specified, to take such part in said hearing as they may desire,

AND IT IS FURTHER ORDERED, That the Defendant,
The Denver & Salt Lake Railroad Company, continue the schedule

of passenger train service on its line of railway, as is now in force and effect, until the 10th day of December, 1916, at which time the Defendant company may comply with the terms of its notice filed with the Commission on the 22nd day of November, 1916, unless the Commission make further order in the premises.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. H. Cyhawn
Commissioners.

Dated at Denver, Colorado,
this 29th day of November, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO.

In the Matter of an Investigation and Hearing on motion of the Commission into the feasibility and necessity of the installation by The Colorado & Southern Railway Company and The Denver & Interurban Railroad Company of electric gongs, audible and visual signals or other suitable safety devices at a portion or all of their respective railroad crossings located on their lines of railway between Denver and Boulder, Colorado.

Case No.95.

Submitted November 10, 1916.

Decided December 2, 1916.

AMENDED ORDER.

WHEREAS, Mr.E.S.Koller, General Manager of The Colorado & Southern Railway Company and The Denver & Interurban Railroad Company, filed with the Commission, under date of November 10, 1916, a communication recommending that the Commission amend that portion of its order of September 16, 1916, in Case No.95, providing for an audible and visual signal to be installed by the Defendant companies at "an unnamed crossing three fourths of a mile north of Superior", to read that the Defendant companies "shall install an audible and visual signal at Barzoi railway crossing, located one half mile northwest of Semper", which recommendation has been approved by Mr.D.S.Hooker, Engineer for the Commission; and

WHEREAS, The Commission has decided to accept the recommendation of its Engineer and Mr.Koller, General Manager of the Defendant companies.

IT IS THEREFORE ORDERED, That the Defendant companies, The Colorado & Southern Railway Company and The Denver & Interurban Railroad Company, shall install an audible and visual signal in accordance with the provisions of the Commission's order of September 16, 1916, at Barzoi railway crossing, located one half mile northwest of Semper on the railway lines

of the Defendant companies, and that that portion of the Commission's order of September 16, 1916, providing for the installation of an audible and visual signal by the Defendant companies at "an unnamed crossing three fourths of a mile north of Superior" shall not be mandatory upon the Defendant companies.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall

Geo. T. Bradley

M. H. G. Leonard
Commissioners.

Dated at Denver, Colorado,
this 2nd day of December, 1916.

SOUTH CANON COAL COMPANY, a
Corporation.

Complainant,

vs.

THE COLORADO MIDLAND RAILWAY COMPANY, Geo.W.Vallery, its Receiver; THE FLORENCE & CRIPPLE CREEK RAILROAD COMPANY, and THE CRIPPLE CREEK & COLORADO SPRINGS RAILROAD COMPANY.

Defendants.

December 2, 1916

Case No. 14

Appearances:

For Complainant, Messrs. Whitehead & Vogl,

For Defendant, The Colorado Midland Railway Co.,

Henry T. Rogers, Esq.,

For Defendants, The Florence & Cripple Creek Railroad Company and The Cripple Creek & Colorado Springs Railroad Company.

Messrs. C. C. Hamlin and J. H. Rothrock.

ORDER FOR DISMISSAL.

WHEREAS, on the 17th day of November, 1916, there was filed with the Commission by Messrs . Whitehead & Vogl, Attorneys for the Complainant herein, a petition praying for the dismissal of Case No. 14.

IT IS THEREFORE ORDERED, That the complaint of
the Complainant be dismissed.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

S. S. Kendall.

Geo. T. Bradley.

M. H. Aylesworth.

Commissioners.

(SEAL)

Dated at Denver, Colorado,
this 2nd day of December, 1916.

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE CITY OF ASPEN, COLORADO,)
)
Complainant,)
)
-vs-)
)
THE CASTLE CREEK WATER COMPANY)
OF WEST VIRGINIA,)
)
Defendant.)

Case No. 89

Submitted October 6th, 1916

Decided December 2nd, 1916.

Appearances:

For the Complainant, Hon. Charles
Wagner, Mayor, and H. C. Clark,
Esq., City Attorney.

For the Defendant, J. M. Downing, Esq.

On the 3rd day of July, 1916, there was filed with this Commission a resolution adopted by the City Council of Aspen, Colorado, requesting an investigation into the alleged inadequacy of service and unreasonableness of rates, rendered and charged to the inhabitants of Aspen, by the defendant, The Castle Creek Water Company. The resolution more particularly states that

"The defendant company does not comply with the terms of a contract ordinance existing between the defendant company and the city, and further that water consumers in the City of Aspen are obliged to pay rates in excess of rates enjoyed by other communities and in addition are obliged, at their own expense, to install and keep in repair all service pipes from the main water lines to their own premises, contrary to the practice and privilege of other communities."

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The resolution authorized and directed the Mayor and City Clerk of the City of Aspen, to lodge the complaint of the City of Aspen with the Public Utilities Commission of the State of Colorado, requesting the said Commission

"To ascertain and fix just and reasonable standards, classifications, regulations, practices and measurements of service to be furnished, imposed, observed and followed by the defendant company in its public service of water to the City of Aspen and its inhabitants, and especially the quantity, quality and pressure furnished and maintained in the water mains of said company."

On the 9th day of August, 1916, the defendant company, thru its attorney, J. M. Downing, Esq., filed with the Commission an answer to the complaint of the complainant, alleging that the service of the defendant company is adequate and that the rates charged by the said defendant company are reasonable. It is further asserted in the answer that the defendant is complying with the terms of all ordinances pertaining to the sale and use of water to the City of Aspen and its inhabitants by the defendant company, but the defendant alleges that a rule requiring it to install free service connections from its mains to the curb line of the property owner would be unreasonable. The defendant concludes its answer by praying for dismissal of the petition of the complainant.

Pursuant to notice duly given to the parties in interest, this case came on for hearing in the Council Chamber of the City Hall in the City of Aspen, Colorado, at the hour of 10 o'clock a. m., October 6, 1916. Prior to the introduction of testimony by witnesses for the Commission and the complainant and defendant, the parties were served with copies of the Commission's order in Case No. 84, "In Re Rules Regulating Gas, Electric and Water Service of all Privately and Municipally Owned Gas. Electric

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and Water Public Utilities Operating within the State of Colorado," which order had been entered by the Commission on the 5th day of October, 1916, effective on the first day of January, 1917. The code of rules and regulations contained in the order of the Commission in Case No. 84, and decided on the 5th day of October, 1916, answered and fully satisfied many of the matters contained in the petition of the complainant. The Commission's code of rules pertaining to privately owned and municipally owned water utilities provides that

"All water furnished by any utility for human consumption and general household purposes should be free from disease producing organisms, injurious chemical or physical substances, and agreeable to the sight and smell."

Rule 44 provides for chemical and bacteriological analyses to be made by the public utility by forwarding samples, taken under the supervision of the Commission, to the State Chemist at Boulder, Colorado, for test and analysis, and that each utility supplying water to a town or city of five thousand inhabitants or more, according to the last census of the United States, shall provide and use a suitable testing equipment for making proper tests for bacillus coli and other bacteria, and tests for turbidity and quantity of matter in suspension, whereby the water furnished by it to consumers shall be tested at least once a week and at such other times as may be required by the Commission. The rule also provides that tests thus made shall be kept on file and available for public inspection for a period of at least two years. The rule further provides that whenever the tests made by the State Chemist, by the Utility, or by any other authorized person, disclose the presence of bacillus coli or high bacterial count, the utility shall employ all

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reasonable means to make its water supply safe for human and domestic consumption.

Rule 45 provides that all "dead ends" in the distributing mains shall be avoided as far as possible, and where such "dead ends" exist, they shall be flushed at least once each week, and, where feasible, the same shall be equipped with hydrants.

Rule 46 reads as follows:

"Adequate Pressure Required:-- Every effort shall be made to maintain a steady pressure which will not at any time fall below the fixed minimum for domestic service. In addition to furnishing commercial service, each utility furnishing fire hydrant service must be able at any time within reasonable notice to supply added fire service in accordance with the best standard practice covering service to local fire fighting equipment and facilities. * * *"

Rule 47 reads as follows:

"Pressure Surveys:-- Each utility furnishing water service in cities of 1,000 inhabitants or more shall maintain a graphic recording pressure gauge at its plant, down-town office, or at some central point in the distributing system or each subdivision thereof, where continuous records shall be made of the pressure in the mains at that point.

"Utilities operating in cities of five thousand or more inhabitants shall equip themselves with one or more graphic recording pressure gauges in addition to the foregoing and shall make frequent records, each covering intervals of at least 24 hours duration, of the water pressure at various points on the system. All records or charts made by these meters shall be identified, dated and kept on file, available for inspection for a period of at least two years."

Rule 14, pertaining to meters and service connections, and applying to all public utilities, privately or municipally owned or operated, reads as follows:

"Meters and Service Connections:-- (a) All meters used in connection with metered service shall be furnished, installed and maintained at the expense of the utility. Any appliance furnished at the expense of the utility shall remain its property and may be removed by it at any time after the discontinuance of service.

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"(b) Service connections to the consumer's premises in the case of electric utilities, and to the consumer's property line in the case of gas and water utilities, shall be installed and maintained at the expense of the utility. This rule shall not apply when unusual conditions are encountered, or to very long service connections. When such special cases arise, the Commission will, if necessary, prescribe the proper charge.

"(c) Any utility may require through its Rules and Regulations that prospective consumers advance the full cost of service connections, the amount so advanced to bear no interest, and to be applied on the consumer's bills until such time as the amount of service furnished under the prescribed schedule of rates shall equal the amount so deposited. Such deposits shall not cover the cost of meters, since these may be recovered by the utility upon the discontinuance of service by the consumer. Any utility may likewise require such deposits from consumers whose service connections are replaced for any cause. It is further provided that no consumer's deposit or advance payment for service shall be required from consumers making deposits for service connections until such time as the amount so deposited for service connections shall have been exhausted.

"(d) No Utility shall require from any consumer or prospective consumer a deposit intended to pay for all or any part of the cost of extension of mains or the installation of service connections, except under Rules and Regulations set down in the public schedules of the utility on file with this Commission.

"Note: The term 'service connection' refers to that portion of the distribution system which is installed for the use of individual consumers or small groups of consumers and does not refer to mains installed on the streets or public highways. The Commission has not attempted to lay down rules governing the extension of mains, but desires that each utility file its practice regarding such extensions."

The above rule satisfies that part of the complaint of the City of Aspen pertaining to service connections, by requiring the defendant corporation to install and maintain at its expense, service connections from its mains to the curb line of the property owner.

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Fred W. Herbert, Chief Statistician for the Commission, and called as a witness by the Commission, read into the record a written report pertaining to the history of the defendant company, its book value, and a statement of income and operating expenses and deduction from income and surplus of the defendant company from February 1st, 1894, to September 1st, 1916.

D. S. Hooker, Engineer for the Commission, called as a witness by the Commission, read into the record a written report containing the present value of the physical properties of the defendant company as of the date September 1st, 1916. Following is a statement of the overhead charges as allowed by Mr. Hooker:

"Castle Creek Water Company, Statement of Overhead Charges.

Inventory, Omissions and Contingencies,..	1%
Engineering.....	4 $\frac{1}{2}$ %
General Supervision.....	2%
Interest during Construction.....	3%
Legal.....	1%
Taxes and Insurance.....	1%
Total.....	12%

Mr. Hooker found that the cost to reproduce, new, the physical properties of the defendant company, including overheads as above set forth, would be \$162,161.00, plus: Land, \$875.00; Water Rights, \$25,000.00; Miscellaneous Equipment, \$2,994.00; a grand total of \$191,030.00; and that the present fair value of the properties of the defendant, excluding working capital and the cost of establishing the business or going value, is \$165,735.00.

Witnesses for the defendant company testified as to the service and rules and regulations pertaining to the same, and witnesses for the complainant testified as to the inadequacy of the service of the defendant com-

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reasonableness of the rates and charges of the defendant company, other than that introduced by the Statistician and Engineer for the Commission.

Without going into detail and while not agreeing entirely with the valuation of the properties of the defendant company as found by the Commission's Engineer, and without admitting that the operating expenses as found on the books of the defendant company are entirely proper, it is apparent to the Commission that the rates of the defendant company are not excessive.

Evidence was introduced by the complainant, and in the main, stands uncontroverted, that the water pressure of the defendant company during the summer seasons for years past has been inadequate. Testimony was introduced tending to show that on several occasions the pressure of the water was such as to result in total loss of properties in the case of fire. Witnesses for the defendant company testified that pressure tests had been taken in the past by the defendant company, the records of which were read into the record. As these tests were not made with a graphic recording pressure gauge at various points on the supply system of the defendant, they were of no value to the Commission. The Commission is of the opinion that in future The Castle Creek Water Company should maintain in continuous use one or more graphic recording pressure gauges at various points on its supply system, and, with the assistance of the information made available by these pressure records, it shall be the duty of the defendant water company, under the supervision of the Engineer for the Commission, to maintain such pressure at all times as shall be adequate for domestic

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If it develops that it is impossible for the defendant company to maintain water pressure by the adoption and rigid enforcement of rules, hereinafter required to be filed with this Commission, governing the periods for irrigation, it shall become the duty of the water company to provide additional capacity in its distribution system.

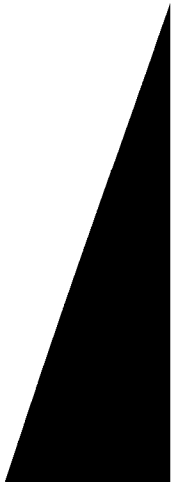
The evidence in this case discloses negligence on the part of the company in its failure to properly flush "dead ends." It is entirely possible, and quite probable, that one reason for inadequate pressure during past summer seasons has been this neglect on the part of the company. It is evident to the Commission that the defendant company, because of a desire to avoid criticism, has neglected or refused to enforce proper rules for irrigation, and it appears from the testimony of the Commission's Engineer that the real reason for inadequate pressure during the summer season has been the failure of the defendant company to enforce proper rules for the use of water for irrigation purposes. The Engineer of the Commission testified that proper rules and regulations governing the use of water for irrigation purposes should be filed with the Commission and rigidly enforced, and suggested that the city be divided into districts, thus preventing unnecessary waste of water.

The defendant company takes its supply of water from Castle Creek and Hunter Creek. The waters from Hunter Creek are soft and suitable for washing purposes, while the waters from Castle Creek are hard and somewhat unsatisfactory for use as laundry water. At the hearing the Commission was asked to require the company on one day each week to take its supply from Hunter Creek, to the end that proper water for laundry purposes could be furnished to the

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inhabitants of Aspen. Representatives of the Company were quick to respond to this suggestion and agreed to comply with a satisfactory rule in this regard.

IT IS THEREFORE ORDERED, That the petition praying for an order of the Commission reducing the rates and charges of the defendant company be, and is hereby, denied.

IT IS FURTHER ORDERED, That the defendant company shall maintain in continuous use, and under the supervision of the Commission's Engineer, one or more graphic recording pressure gauges at various points on its supply system in accordance with Rule 47 as promulgated in the order in Case No. 84, and as set forth in this order, and that the said defendant company shall maintain such pressure as shall at all times be adequate for reasonable domestic use and fire protection.

IT IS FURTHER ORDERED, That the defendant company shall flush all "dead ends" at least once a week until the further order of the Commission.

IT IS FURTHER ORDERED, That the defendant company, on the first day of January, 1917, and thereafter, shall comply with the order of the Commission entered in Case No. 84 and entitled, "In Re Rules Regulating Gas, Electric and Water Service of all Privately and Municipally Owned Gas, Electric and Water Public Utilities Operating within the State of Colorado."

IT IS FURTHER ORDERED, That the defendant company, on or before the first day of March, 1917, shall file with the Commission reasonable rules and regulations

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pertaining to the use of water for irrigation purposes,
which rules, when accepted by the Commission, shall be
rigidly enforced.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E AL)

S. S. Kendall
Geo. T. Bradley
M. H. Aylesworth
Commissioners.

Dated at Denver, Colorado,
this 2nd day of December, 1916.

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ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

CITIZENS OF GRAND LAKE, COLORADO,
BELLE KAUFFMAN, et al.,

Complainants,

-vs-

THE DENVER & SALT LAKE RAILROAD
COMPANY,

Defendant.

Case No. 110.

Submitted October 6, 1916.

Decided December 9, 1916.

A P P E A R A N C E S:

For the Citizens of Steamboat Springs
and Craig, Colorado, George A. Pughe, Esq.

For the Citizens of Grand County, Colorado,
Messrs. Howard & McGrillis.

For the defendant, The Denver & Salt Lake
Railroad Company, Tyson S. Dines, Esq.,
and Tyson S. Dines, Jr. Esq., and Mr.
W. E. Morse, Vice-President and General
Manager.

S T A T E M E N T

By the Commission:

On the 22nd day of November, 1916, The Denver & Salt Lake Railroad Company filed with this Commission a written notice in accordance with the Commission's General Order No. 7, stating that, effective December 3, 1916, and continuing until the month of April, 1917, The Denver & Salt Lake Railroad Company intended to discontinue daily passenger train service on

Trains Nos. 1 and 2, and to operate the same upon a tri-weekly basis, leaving Denver on Monday, Wednesday and Friday and returning on Tuesday, Thursday and Saturday of each week; and stating reasons for the discontinuance of the daily passenger train service.

On the 25th day of November, 1916, the Commission acknowledged receipt of the notice filed by The Denver & Salt Lake Railroad Company, and informed the defendant carrier that the proposed schedule of train service as filed with the Commission on the 22nd day of November, 1916, effective December 3, 1916, would be accepted by the Commission unless complaints were lodged with this Commission, but that in event of such complaints being filed a hearing would be held and the issues determined upon their merits and in accordance with the testimony offered.

On the 29th day of November, 1916, the Commission received a written petition signed by Citizens of Grand Lake and vicinity, protesting against the discontinuance of service, and setting forth as their reason for protest the reduced mail service which naturally would result from the proposed schedule.

On the 29th day of November, 1916, the Commission issued an order directed against the defendant railroad company, requiring it to continue the schedule of passenger train service on its line of railway as was then in force and effect until the 10th day of December, 1916, and directing the Secretary of the Commission to prepare a notice of hearing to be sent to The Denver & Salt Lake Railroad Company and to other parties in interest, summoning them to appear before the Commission at its hearing room in the State Capitol Building, in the City and County of Denver, Colorado, at the hour of 10 o'clock a. m. on December 6, 1916, and at that time and place to submit such evidence to the Commission as the interests of the parties might require.

This cause came on for hearing before the Commission on the 6th day of December, 1916, at the hearing room of the Commission at the Capitol Building in the City and County of Denver, Colorado, at the hour of 10 o'clock a. m.

Written petitions, signed by persons residing in the vicinities along the line of railway operated by the defendant company, objecting to the reduction of passenger train service as proposed by the defendant carrier in its notice to the Commission, and stating the reasons for these objections, were received by the Commission and were introduced into the record.

Telegrams and petitions, signed by persons residing in the vicinities along the line of railway of the defendant carrier, upholding the defendant railroad in the proposed schedule, were received also by the Commission and introduced into the record.

Approximately thirty shippers and citizens residing and doing business along the line of railway operated by the defendant carrier appeared and testified before the Commission favoring the proposed schedule of the defendant carrier.

W. E. Morse, Vice President and General Manager of The Denver & Salt Lake Railroad Company, was called as a witness for The Denver & Salt Lake Railroad Company, and detailed reasons supporting the position of the railroad company. Witness Morse explained fully to the Commission the difficulties encountered in operating the defendant carrier's line of railway. This line of railway is operated between Denver and Craig, Colorado, and crosses the Continental Divide.

From the evidence before the Commission, it is apparent that the officers of the defendant railroad company cope with operating difficulties which at times are beyond control. Certain testimony was to the effect that many times during this season of the year, December, January, February and March, trains

are delayed and stalled because of unusual snowfall and terrific blizzards in the mountains. One occasion was cited where a passenger train was held in snowdrifts for a period of ten days. Other instances were enumerated when engines continually froze to the rails so that operation was impossible. Probably no railroad company operating within the United States is subject to the adverse operating conditions confronting the officials of The Denver & Salt Lake Railroad Company.

The defendant railroad was conceived for the purpose of opening and developing the vast territory to the west of Denver, piercing the Rocky Mountains by a tunnel, and completing a direct line of railway to the City of Salt Lake. The railroad is only partially constructed, operating to Craig, Colorado, and although surrounded by the most productive coal fields within the State of Colorado and a vast agricultural region, the towns and counties thru which this railway operates are still in the course of development.

The defendant railroad company urges the Commission to permit the proposed schedule to go into effect for the reason that its expenses will be decreased materially thereby during the winter season of the year 1916-1917. While the financial condition of this railroad is of some importance in the case before the Commission, it would receive more serious consideration in a rate case than in the question of adequate service under the issues here presented. The evidence is undisputed, however, that for the month of December, 1915, there was an average of 9.68 passengers per car per train; for January, 1916, 8.93 passengers per car per train; February, 1916, 9.23 passengers per car per train, and March, 1916, 10.44 passengers per car per train. Evidence was introduced showing that the passenger trains of this defendant corporation are operated at a loss, and that during the winter season the loss is heavy, due to the small number of passengers riding upon the trains of the carrier and

the exceptional operating conditions confronting the defendant. Evidence was introduced showing operating revenues and operating expenses arising from the operation of passenger trains in the winter season, and the defendant carrier presented evidence of losses, taking into consideration interest on bonds.

The Denver & Salt Lake Railroad Company is a common carrier existing and doing business under the laws of the State of Colorado, and, as a common carrier, must give adequate and reasonable service, regardless of the losses entailed, altho the Commission always will give due consideration to the financial condition of any public utility. There is a clear duty upon the common carrier to give adequate and reasonable service or to release its charter and discontinue its existence; otherwise its purpose is not fulfilled. In the case of The Colorado & Southern Railway Company, vs. the State Railroad Commission, et al., decided in September, 1912, and reported in Volume 54 of the Colorado Reports, the Supreme Court of Colorado, in an opinion written by Mr. Justice Gabbert, at page 93, states;

"The law imposes upon it the duty of furnishing adequate facilities to the public on its entire system, not a part; and it cannot be excused from performing its full duty merely because, by ceasing to operate a part of its system, the net returns would be increased; so that it cannot be said, under the facts, that requiring plaintiff in error to perform its duty to the public by furnishing an adequate service over its line between Denver and Leadville, although a pecuniary loss is entailed, is unreasonable or deprives it of any constitutional right, either federal or state.--Mo. Pac. Ry. Co. v. Kansas, 216 U. S. 262; Atl. Coast Line R. R. Co. v. N. C. Corp. Com., 206 U. S. 1; Corporation Com. v. R. R., 137 N. C. 1.

"In brief, under the facts of the case at bar, an order requiring a railroad company in the possession and enjoyment of its charter powers and privileges, to furnish a necessary service does not, even though a compliance with the order entails a loss, deprive it of its property without due process of law, or compel it to devote its property and revenues to a public use without just compensation, for the obvious reason that such an order merely requires it to discharge its legal obligations. Of course, that a service ordered will entail a loss is a circumstance to consider in determining the reasonableness of the order; but a common carrier cannot successfully complain that a loss will thus be occasioned when it appears that the ordered service requires nothing more than necessary transportation facilities."

Also on page 90:

"If, however, we assume the record discloses that a compliance with the order of the commission will entail a substantial loss, in excess of the revenues derived from the operation of the trains ordered, then we think that neither this fact nor any of the propositions to be considered in connection with it justify a reversal of the judgment. In considering losses, we deem it pertinent to suggest that interest on bonds and investment should not be taken into account, as the amounts representing these items could not be materially different, whether the road was operated or not. Taxes might be less on an abandoned road than one in operation."

There is a much more important question than financial losses for the Commission to determine in the present case, and that is the question of adequate and reasonable service, taking into consideration all of the facts necessary for its proper determination. It is common knowledge, and a matter of which the Commission can take notice without evidence, that a serious car shortage exists thruout the United States, and particularly in the State of Colorado. The evidence in this case discloses the fact that the defendant railroad company encounters exceptional difficulties in operating its daily passenger train service during the months of December, January, February and March, and that the operation of these trains upon a daily schedule is practically impossible at times during these months.

The testimony of many large shippers upon the line of railway of the defendant carrier, consisting of coal operators, lumber men, dealers in merchandise, and mill operators, discloses the fact that freight trains are operated under difficulties because of the daily passenger train service during these particular months, and more particularly in the month of December for the year 1916. This railroad operates no Sunday passenger trains, and the testimony of all witnesses was to the effect that on Monday freight moved more rapidly and more empty cars were available for loading. Every witness testifying before the Commission, contended that it would be for the best interests of the communities served by this railroad to permit the reduced schedule of passenger train

service during winter months in order that freight might move more promptly. It is clear from the number of passengers using the passenger trains of the defendant carrier during the months of December, January, February and March, that the reduction of passenger train service from one each day to one every other day, is not the main objection to the proposed schedule, but rather the inconvenience in the mail service. It has been no certain thing in the past that mail has been delivered by the defendant carrier every day during the winter season, and, in fact, the train which brought the witnesses to this hearing was twenty-four hours late arriving in the City of Denver.

It should be, and is, the desire and intention of this Commission to protect public interests, to see that every public utility functions in a proper manner, and that the public is adequately served, but the Commission also owes a duty to the public utilities of this State. Should it fail to act in entire fairness in the cases presented to it, the very purpose of its existence would be gone.

It doubtless is an inconvenience to residents along this line of railway to receive mail only every second day rather than every day of the week for three and one-half months during the winter season of 1916-1917, but it is of more importance to these very people and to all interested in business and in the welfare of the rich, the undeveloped, territory served by the defendant carrier, to in every way cooperate with the carrier in solving its problems.

If it were the intention of the defendant carrier to make the proposed schedule of passenger service permanent in effect, rather than effective for the period of the four/^{winter} months in 1916-1917, another question would be presented to the Commission; and even if the intention of the carrier intended to make the tri-weekly service effective for a period of four months each year, the Commission might arrive at a different determination of

this cause, but it has been stated repeatedly by the carrier that it has no desire to reduce the train service at other periods of the year than this and that it hopes to be in a position next year not to request the service asked for at this time. It must be understood that the Commission is not now determining that the defendant carrier may reduce its passenger service from daily to tri-weekly service during the winter months in years to follow.

On the 8th day of May, 1915, this Commission reduced passenger fares charged by the defendant carrier from 5 cents per mile to $4\frac{1}{2}$ cents per mile, in Case No. 11, In re Passenger Rates in Colorado, and ordered the carrier to sell family mileage books to those desiring the same, at a rate less than the regular fare, and also ordered the railroad to furnish fifteen-day round trip tickets between all points upon its line of railway.

It is the opinion of this Commission that the proposed tri-weekly service of The Denver & Salt Lake Railroad Company, with a passenger train leaving Denver on Monday, Wednesday and Friday, and returning on Tuesday, Thursday and Saturday of each week, beginning December 10, 1916, and ending April 1, 1917, with daily passenger train service thereafter, is adequate and reasonable passenger service under the peculiar conditions existing at this time, and that it is to the best interests of the entire people served by this railroad company, that this temporary service be permitted.

O R D E R.

IT IS THEREFORE ORDERED, That The Denver & Salt Lake Railroad Company may operate its passenger trains Nos. 1 and 2 upon a tri-weekly basis, leaving Denver on Monday, Wednesday and Friday, and returning Tuesday, Thursday and Saturday of each week, for a period from December 10, 1916, to April 1, 1917, at which time the defendant carrier shall resume a passenger train service

of not less than one train a day each way.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

S. S. Kendall
Geo. T. Bradley
M. H. G. Smith
Commissioners.

Dated at Denver, Colorado,
this 9th day of December, 1916.

ORIGINAL

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE CITY OF COLORADO SPRINGS,
Colorado,
Complainant,

-vs-

Case No. 90

THE COLORADO MIDLAND RAILWAY
COMPANY, George W. Vallery,
Receiver,
Defendant.

THE CITY OF COLORADO SPRINGS,
Colorado,
Complainant,

-vs-

Case No. 91

THE DENVER & RIO GRANDE RAIL-
ROAD COMPANY,
Defendant.

THE CITY OF COLORADO SPRINGS,
Colorado,
Complainant,

-vs-

Case No. 92

THE CRIPPLE CREEK & COLORADO
SPRINGS RAILROAD COMPANY,
Defendant.

THE CITY OF COLORADO SPRINGS,
Colorado,
Complainant,

-vs-

Case No. 93

THE ATCHISON, TOPEKA & SANTA
FE RAILWAY COMPANY,
Defendant.

Submitted October 10th, 1916

Decided December 14th, 1916.

A p p e a r a n c e s:

For the Complainant, the City of Colorado
Springs, J. L. Bennett, Esq., Attorney,
Messrs. D. G. Johnson, C. L. McKesson,
F. H. Duckett, W. A. Anderson, H. D.
Harper and Francis F. Mallon.

For the Defendant, The Denver & Rio Grande Railroad Company, J. G. McMurry, Esq., Attorney; Messrs. W. E. Miller and Arthur Ridgway.

For the Defendant, The Atchison, Topeka & Santa Fe Railway Company, Henry T. Rogers, Esq., Attorney, and George A. H. Fraser, Esq., Attorney; Messrs. J. G. McMahon and D. E. Helvern.

For the Defendant, The Colorado Midland Railway Company, Henry T. Rogers, Esq., Attorney, and George A. H. Fraser, Esq., Attorney; Messrs. M. L. Phelps and V. B. Wagner.

For the Defendant, The Cripple Creek & Colorado Springs Railroad Company, C. C. Hamlin, Esq., Attorney, and James H. Rothrock, Esq., Attorney; Messrs. J. J. Cogan and Irvin Sylvester.

By the Commission:

On the 31st day of July, 1916, the City of Colorado Springs filed with the Commission a complaint against The Colorado Midland Railway Company, alleging that the railroad tracks of said railroad company cross certain streets and avenues of the City of Colorado Springs upon grade as follows: Weber Street, Nevada Avenue, Tejon Street, Cascade Avenue, Sierra Madre Street, Conejos Street and Eighth Street.

The complaint describes the locations of the above railway crossings at grade and prays that the defendant company be required to install and maintain at each of the above railway crossings at grade, feasible safety devices, or other devices suitable to at all times properly warn traffic of the approach of trains.

On August 11, 1916, the defendant, The Colorado Midland Railway Company, by George W. Vallery, Receiver, filed with the Commission its duly verified answer, alleging that ample protection has been afforded by the defendant railroad at each of its railway crossings at grade within the City of Colorado Springs, and alleging further that the

road of the defendant does not cross Conejos Street at grade in the City of Colorado Springs, and concludes its answer with a prayer that the complaint be dismissed.

On the 31st day of July, 1916, the City of Colorado Springs filed with the Commission a duly verified complaint directed against The Denver & Rio Grande Railroad Company, alleging that the railroad tracks of the defendant company cross certain streets and avenues of the City of Colorado Springs upon grade as follows: Mesa Road, Las Animas Street, Conejos Street, Sierra Madre Street and Willamette Avenue.

The complaint describes the locations of the above named railway crossings at grade and alleges that these crossings are not properly protected with appropriate safety devices, and prays that the defendant company be required to install and maintain at each of said crossings, feasible safety devices, or other devices suitable to at all times properly warn traffic of the approach of trains, and that the defendant railroad company be ordered and directed to construct and maintain a suitable viaduct or subway at the Willamette Avenue crossing.

On the 7th day of August, 1916, The Denver & Rio Grande Railroad Company filed an answer to the complaint of the City of Colorado Springs, denying that the railway crossings at grade, as set forth in the complaint of the City of Colorado Springs, are not properly protected, so far as it devolves upon the defendant to protect the said crossings.

On the 31st day of July, 1916, the City of Colorado Springs filed with this Commission its duly verified complaint directed against The Cripple Creek & Colorado Springs Railroad Company, alleging that the railroad tracks of The Cripple

Creek & Colorado Springs Railroad Company cross certain streets and avenues of the City of Colorado Springs upon grade as follows: Sierra Madre Street, Conejos Street, Eighth Street and Fountain Street.

The Complaint describes the locations of the above named railway crossings at grade, and alleges that the crossings are not sufficiently protected with appropriate safety devices and prays that The Cripple Creek & Colorado Springs Railroad be required to install and maintain at each of the above named railway crossings at grade, feasible safety devices, or other devices suitable to at all times properly warn traffic of the approach of trains.

On the 8th day of August, 1916, The Cripple Creek & Colorado Springs Railroad Company filed with this Commission its duly verified answer to the complaint of the City of Colorado Springs, denying that the railway crossings at grade set forth in the complaint are not sufficiently protected, and alleges that its railway tracks do not cross Eighth Street, and prays that the complaint of the complainant be dismissed.

On the 31st day of July, 1916, the City of Colorado Springs filed with this Commission its duly verified complaint directed against The Atchison, Topeka & Santa Fe Railway Company, alleging that the railway tracks of The Atchison, Topeka & Santa Fe Railway Company cross certain streets and avenues of the City of Colorado Springs upon grade as follows: Fontanero Street, Espanola Street, Del Norte Street, Caramillo Street, Wahsatch Street, Columbia Street, Corona Street, San Miguel Street, Uintah Street, El Paso Street, Willamette Avenue, El Paso Street (between Willamette and Platte), Boulder Street, Platte Avenue and Fountain Street.

The complaint describes the locations of the above named railway crossings at grade, and alleges that each of

the crossings above set forth, except the railway crossings at grade at El Paso, Platte and Boulder Streets, which are protected by gates, are protected by an electric or automatic gong, and that the three crossings protected by gates are not protected after 6:30 p. m. The complainant alleges that the above named railway crossings at grade are not sufficiently protected with appropriate safety devices, and prays that The Atchison, Topeka & Santa Fe Railway Company be required to install and maintain at said crossings, feasible safety devices, or other devices suitable to at all times properly warn traffic of the approach of trains, and that the railway crossings at grade now protected by gates, be protected for an additional length of time to properly protect the safety of traffic at the said crossings.

On the 11th day of August, 1916, The Atchison, Topeka & Santa Fe Railway Company filed with the Commission its duly verified answer to the complaint of the City of Colorado Springs, alleging that the railway crossings at grade, as set forth in the complaint of the City of Colorado Springs, are sufficiently protected, and prays that the complaint be dismissed.

Pursuant to notice duly given to the parties in interest, the above causes came on for hearing before the Commission in the Council Chamber of the City Hall in the City of Colorado Springs, State of Colorado, at the hour of 11 o'clock a. m., Tuesday, September 19th, 1916. Cases Nos. 90, 91, 92 and 93, were consolidated for the purpose of hearing, but the evidence in each case was taken separately by the Commission and considered by the Commission separately and apart from the evidence of any other case, except where the evidence offered in one case was material to the proper consideration of any other case. This arrangement proved satisfactory to all concerned, and J. G. McMurphy,

Attorney for The Denver & Rio Grande Railroad Company, on behalf of The Denver & Rio Grande Railroad Company and all other defendants to the above enumerated cases, asked leave, and was given permission, to file with the Commission what the said McMurtry termed a Demurrer, Objection and Motion to the complaints of the City of Colorado Springs. The motion alleged that the complaints failed to state legal causes of action against the defendants, and that the Public Utilities Commission of the State of Colorado was without jurisdiction over the matters and things set forth in the complaints. The Commission overruled the motion of The Denver & Rio Grande Railroad Company without argument, for the reason that the Commission heretofore has ruled upon the question of jurisdiction over similar matters.

J. L. Bennett, City Attorney of the City of Colorado Springs, stated that the complainant was not prepared to offer testimony from an engineering standpoint and would rely solely upon the testimony of the Commission's engineer.

D. S. Hooker, Engineer for the Commission, was called to the witness stand by the Commission, and it developed that Mr. Hooker desired further time to prepare a detailed report upon the railway crossings in question; whereupon the Commission directed its engineer to prepare a full and detailed report upon the physical conditions of the said railway crossings at grade within the City of Colorado Springs, containing recommendations for proper and adequate protection, where needed, and to be prepared for cross-examination by the City and the railroad companies. The Commission directed the City to prepare a traffic census at each crossing, and further directed the defendant railroad companies to prepare immediately for the Commission sketch cards of each railway crossing at grade within the City of Colorado

Springs, setting forth in detail the information required in the Commission's order in Case No. 56, made and entered on the 27th day of May, 1916. The above entitled causes then were ordered continued for further hearing on the 9th day of October, 1916, at 11 o'clock a. m., at the Council Chamber in the City Hall at Colorado Springs.

On the 9th day of October, 1916, hearing of the above causes was reconvened at the City Hall at Colorado Springs. The first witness called was D. S. Hooker, Engineer for the Commission, who had prepared a detailed report of the railway crossings at grade of the defendant carriers located within the City of Colorado Springs, showing the number of trains scheduled to cross each railway crossing at grade, together with the traffic census taken at each crossing during the month of September by representatives of the City of Colorado Springs, under the direction of the Commission. His report showed the general condition of each crossing and approaches and whether or not same complies with the Commission's order in Case No. 56, providing for uniform railway crossings at grade; described obstructions on right of way, if any; showed the view of the right of way from the highway at distances from 50 to 400 feet on either side of each crossing; stated the protection, if any, now afforded at each crossing, together with recommendations for adequate protection, if necessary, and whether or not the elimination of the crossing at grade is feasible. It also stated the speed maintained generally by each passenger train and freight train on the lines of each of the defendant carriers in the City of Colorado Springs, together with the approximate costs of audible and visual signals, otherwise known as "wig-wags", the cost per month of maintaining a flagman, the cost of gates with towers installed and the

wages of operators, and the cost of the standard railway crossing bell. Testimony was introduced by the City Commissioners of Colorado Springs and representatives of the defendant carriers.

The Commission has considered carefully the evidence introduced by its engineer, the City Commissioners and the representatives of the defendant carriers, and has considered, separately and apart from that of any other defendant carrier, except where the evidence introduced into the record was general and pertained to all crossings alike or to all of the defendant carriers alike, the evidence and testimony offered as to the adequacy or inadequacy of protection of railway crossings at grade located within the City of Colorado Springs of each defendant carrier.

Exhibits, in the nature of photographs showing each railway crossing at grade of each defendant carrier, were introduced by the Commission's Engineer. Card sketches, showing the physical condition of each railway crossing at grade, in accordance with the Commission's order in Case No. 56, were introduced by the defendant carriers.

CASE NO. 90

The Colorado Midland Railway Company,
George W. Vallery, Receiver.

Weber Street Crossing:

The evidence and testimony introduced pertaining to this crossing demonstrates that ten regular trains are scheduled to cross this railway crossing at grade each day, and that the crossing is important is shown by the traffic census taken by representatives of the City of Colorado Springs on the 26th day of September, 1916, from 6. a. m. to 8 p. m., during which time 129 motors, 76 animal-drawn vehicles, 67 bicycles and 269 pedestrians used this crossing.

The physical condition of the crossing appears to be good, altho the view of the crossing is only fair, and could be improved by the trimming of trees located on Weber Street. The crossing at present is protected by a standard electric gong and standard crossing sign, the bell being operated by a watchman located at the railway crossing at grade at Tejon Street, who also operates other bells located at other railway crossings at grade in the vicinity.

From the testimony of the Commission's Engineer and witnesses for the City and The Colorado Midland Railway Company, the Commission finds that the crossing is not properly protected, that the sign and bell should be moved to the center of the street, and that a red incandescent electric light should be installed upon said sign to be operated from dusk until dawn in conjunction with the bell, which shall be operated at all times.

Nevada Street Crossing:

This is an important crossing, the traffic census taken on the 22nd day of September, 1916, by representatives of the City of Colorado Springs from 6 a. m. to 8 p. m. showing 1073 motors, 253 animal drawn vehicles, 238 bicycles and 660 pedestrians using the crossing during these hours. The physical condition of the crossing is good and conforms with the order of the Commission in Case No. 56. There are no obstructions on the right of way of the railway company. The view of this crossing from the highway is fair, and the trains of the railway company are operated over the crossing at a speed not exceeding eight miles an hour. This crossing is protected by an electric bell located in the center of the street and operated by the operator at Tejon Street.

It does not appear necessary or feasible to eliminate this railway crossing at grade, and the Commission

finds that the crossing would be properly protected should the railway company install a red incandescent electric light to be operated from dusk until dawn and attached to the automatic bell now operated at this crossing.

Tejon Street Crossing:

The evidence shows that this railway crossing at grade is crossed by one of the important street car lines within the City of Colorado Springs, under the Commission's General Order No. 14, which provides that the conductor of the street car shall flag before proceeding across the railway tracks. The traffic census taken by representatives of the City on September 26, 1916, between the hours of 6 p. m. and 8 p. m. shows that 587 motors, 171 animal-drawn vehicles, 347 bicycles and 755 pedestrians traversed the crossing. The physical condition of the crossing is good and in conformity with the Commission's order in Case No. 56. There are no obstructions on the right of way, and the view of the right of way from the highway is fair. This crossing is protected by an electric bell operated by an operator located at this crossing, and in addition two watchmen are on duty twenty-four hours daily. When east bound trains reach a point 1000 feet west of Sierra Madre Street, an electric connection in the track causes a bell to ring in the watchman's shanty and the electric bells are then operated by the operator at all Midland crossings one block in advance of the train. The west bound Midland trains are run slowly out of the Santa Fe yard and are visible to the watchman for many blocks. The maintenance of the bells and the wages of the watchmen are apportioned between the Midland Railway Company and the Santa Fe Railway Company.

It appears neither necessary nor feasible at this time to eliminate this crossing, and if the railway company installs a red incandescent electric light where the bell is now located, the light to be operated from dusk until dawn, the crossing will be adequately protected.

Cascade Avenue Crossing:

The traffic census taken at this crossing by representatives of the City on the 21st day of September, 1916, from 6 a. m. to 8 p. m. shows that 375 motors, 151 animal-drawn vehicles, 215 bicycles and 575 pedestrians traversed the same. The physical condition of the crossing conforms with the Commission's order in Case No. 56 and no obstructions appear on the right of way. The view of the crossing from the highway is poor. The crossing is now protected by an electric bell operated by the watchman located at Tejon Street crossing, and there is additional protection by the operation of a derailler located at the crossings on this line of railway, also operated by the Tejon Street operator.

The Commission is of the opinion that the crossing is not properly protected and that the alarm bell and railway sign should be moved to the center of the street, upon which should be installed a red incandescent electric light to be operated from dusk until dawn, and the bell to be operated as heretofore. It does not appear necessary or feasible to eliminate this crossing.

Sierra Madre Street Crossing:

This crossing appears to be relatively unimportant, as the traffic census taken by representatives of the City of Colorado Springs on the 21st day of September, 1916, from 6 a. m. to 8 p. m., shows that 18 motors, 34 animal-

drawn vehicles, 12 bicycles and 70 pedestrians traversed the same. The physical condition of the crossing conforms with the Commission's order in Case No. 56, and there are no obstructions on the right of way of the railway company. The view of the crossing from the highway is only fair, but the crossing is protected by an electric bell operated by the watchman at Tejon Street.

The Commission considers this crossing adequately protected if the bell is moved to the center of the street and a red incandescent electric light installed, to be operated from dusk until dawn, and the bell to be operated as heretofore.

Eighth Street Crossing:

This crossing is an approach to the Bear Creek Road and is an important highway. The traffic census taken on the 22nd day of September, 1916, by representatives of the City of Colorado Springs from 6 a. m. to 6:30 p. m., shows that 104 motors, 48 animal-drawn vehicles, 50 bicycles and 209 pedestrians traversed the same. This crossing does not conform to the Commission's order in Case No. 56, and the grade on the south side of the track should be corrected immediately. A dirt bank, situated on the right of way and which can be utilized in the correcting of the grade, obstructs the view. The car inspector's shanty should be moved to give a better view of the railway track. The view of the railway crossing from the highway is poor, but as the trains traversing this crossing attain a speed of not to exceed five miles an hour and as the crossing is protected by an automatic electric bell, the protection appears to be adequate. It is not necessary to consider the separation of grades at this crossing.

It is the opinion of the Commission that the railway trains of The Colorado Midland Railway Company should not exceed a speed of five miles an hour across the above railway crossings at grade.

CASE NO. 92

The Cripple Creek & Colorado Springs Railroad Co.

Eighth Street or Bear Creek Road Crossing:

This crossing appears unimportant, as the traffic census taken on the 22nd day of September, 1916, between 7 a. m. and 7:30 p. m., by representatives of the City of Colorado Springs, shows that 37 motors, 14 animal-drawn vehicles, 6 bicycles and 7 pedestrians traversed the crossing. At the time of the hearing of this case the physical condition of this crossing did not comply with the order of the Commission in Case No. 56, but subsequent inspection by the Commission's Engineer developed the fact that the defendant carrier had corrected the approaches to the crossing and had removed the necessary dirt from the northeast side of the crossing, so the crossing now complies with the Commission's order. West bound trains of the defendant carrier traversing this crossing proceed up-grade at a low rate of speed, and it appears unnecessary to otherwise protect the crossing.

Sierra Madre Crossing:

This crossing is located on the outskirts of the City of Colorado Springs and is served by poorly kept streets. The crossing appears relatively unimportant. There are no obstructions on the right of way and the view of the crossing from the highway is fair. The crossing at present is protected by an automatic electric bell, and, due to the small number

of trains and the slow rate of speed at which they are operated, it appears that the crossing is adequately protected and that it is unnecessary to separate the grades.

CASE NO. 93

The Atchison, Topeka & Santa Fe Railway Company.

Seventeen scheduled trains each day.

Fontanero Street Crossing:

This crossing is traversed by a street railway line, and the traffic census taken by representatives of the City of Colorado Springs on the 26th day of September, 1916, from 6 a. m. to 8 p. m., shows that 74 motors, 50 animal-drawn vehicles, 50 bicycles and 98 pedestrians traversed the crossing. The physical condition of the crossing and the approaches thereto is good and in compliance with the Commission's order in Case No. 56. The Commission has been informed that the railway company will further improve this crossing by application of gravel on the approaches. There are no obstructions on the right of way and the view of the railway crossing from the highway is good. The street railway cars and the trains of the defendant railway at this crossing are operated by an interlocking plant in charge of a towerman, and the crossing also is protected by an automatic electric bell. The protection is adequate and it appears unnecessary to separate the grades.

Espanola Street and Del Norte Street Crossings:

Espanola Street is an approach to the Golf Club and is used by automobiles, delivery wagons and school children. The traffic census taken by representatives of the City on September 26, 1916, from 6 a. m. to 8 p. m. shows that 62 motors, 20 animal-drawn vehicles, 40 bicycles and 101 pedestrians traversed the same. The physical con-

dition of the crossing and approaches is good and complies with the Commission's order in Case No. 56. There are no obstructions on the right of way and the view of the railway crossing from the highway is fair.

The Del Norte Street crossing is important, as is demonstrated by the traffic census taken by representatives of the City on September 26, 1916, from 6 a. m. to 8 p. m., which shows that 57 motors, 30 animal-drawn vehicles, 113 bicycles and 402 pedestrians traversed this crossing, and that the crossing is used by many school children. The physical condition of the crossing approximately conforms with the Commission's order in Case No. 56. There are no obstructions on the right of way and the view of the railway track from the highway is good.

The evidence pertaining to these railway crossings at grade convinces the Commission that the same are dangerous, and that the protection afforded by automatic electric bells at present maintained, is not sufficient, due to the character of the use of these crossings. The Steele public school is located on Weber Street, between Espanola and Del Norte Streets about 400 feet from the track. Approximately 500 pupils attend this school, and a large number traverse these crossings.

The Commission is of the opinion that gates should be installed at the railway crossing at grade located at Del Norte Street and at the railway crossing at grade located at Espanola Street. These gates may be protected by one towerman, or by flagmen located at each crossing. The crossing gates shall be installed by the railway company subsequent to the approval of the plans for the same which shall first be submitted to the Commission.

Caramillo Street Crossing:

This is an important crossing, as evidenced by the traffic census taken by representatives of the City of Colorado Springs on the 26th day of September, 1916, from 6 a. m. to 8 p. m., showing that 71 motors, 22 animal-drawn vehicles, 62 bicycles and 173 pedestrians traversed the same. The street west of this railway crossing at grade is 50 feet in width and east of the railway crossing at grade is 100 feet in width. The physical condition of the crossing approximately complies with the Commission's order in Case No. 56. There are no obstructions on the right of way of the defendant carrier and the view of the railway crossing from the highway is fair. Trees located on private land overhang the right of way in such a manner as to obstruct the view to the south approaching the crossing from the west on the highway.

It appears neither necessary nor feasible to eliminate this crossing at grade, and the Commission considers the automatic electric bell now installed at this crossing as adequate protection.

Wahsatch Street Crossing:

This crossing is not especially important, as the traffic census taken by representatives of the City of Colorado Springs on September 26, 1916, between 6 a. m. and 8 p. m., shows that 33 motors, 28 animal-drawn vehicles, 34 bicycles and 56 pedestrians traversed the same. The evidence developed the fact that with very little additional work the physical condition of the crossing would comply with the Commission's order in Case No. 56. There are no obstructions on the right of way and the view of the crossing from the highway is good. The crossing is protected by an automatic electric bell, which appears to be adequate protection, and

it is apparent that it is unnecessary to eliminate this crossing. The traffic at this crossing is local.

Columbia Street and Corona Street Crossings:

Columbia and Corona Streets intersect practically at the edge of the railway right of way, the centers of the railway crossings at grade being but 100 feet apart. These crossings are important, as the traffic census taken by representatives of the City of Colorado Springs on September 26, 1916, between the hours of 6 a. m. and 8 p. m. shows that 97 motors, 60 animal-drawn vehicles, 115 bicycles and 202 pedestrians traversed the Columbia Street crossing, while 83 motors, 28 animal-drawn vehicles, 70 bicycles and 145 pedestrians traversed the Corona Street crossing.

It is apparent from the evidence that with little additional work, which the railroad representatives assure the Commission will be completed at an early date, the physical condition of the crossings will conform with the Commission's order in Case No. 56. There are no obstructions on the right of way at either crossing and the view of the railway crossings from the highway is fair.

These railway crossings at grade are now partially protected by an automatic electric bell, located on the railroad right of way about midway between the two crossings. It appears that the bell is not located properly for the adequate protection of both crossings, as the view and sound of the bell are cut off from east-bound traffic on Columbia Street until the grocery store located on the south is passed, which then leaves a view of but 100 feet of the track to the south from a point 100 feet west on the highway.

The Commission is of the opinion that the automatic electric bell should be removed from its present location and that an audible and visual signal, of the type heretofore prescribed by the Commission, shall be installed at a point near the intersection of the two streets and under the supervision of the Commission's Engineer.

It is unnecessary to eliminate this crossing at this time.

San Miguel Street, El Paso Street (north crossing) and Willamette Street Crossings:

The railway crossings at grade located at San Miguel, El Paso Street, North crossing, and Willamette Street, are protected by automatic electric bells. There appear to be no obstructions on the rights of way of the crossings and the views of the crossings from the highways are fair. The traffic census taken by representatives of the City of Colorado Springs at these crossings in the month of September, 1916, indicates that they are fairly important and that local travel constitutes the major portion of the use of these crossings.

These railway crossings at grade conform with the Commission's order in Case No. 56, with the exception of the Willamette Crossing. At the Willamette Crossing the grade approaching from the highway on the west is 7.4 percent extending west 100 feet to a bridge. The correction of this grade will extend off the right of way about 60 feet, necessitating the cooperation of the City of Colorado Springs with the railroad company in the completion of this work. The Commission is of the opinion that the defendant carrier should immediately confer with the City as to the early completion of the improvement necessary at this crossing and report progress to the Commission.

El Paso Street, south crossing, Boulder Street and Platte Street Crossings:

These railway crossings at grade are protected by gates operated by a towerman, who is on duty from 7 a. m. to 6 p. m. The physical condition of the railway crossing at grade at El Paso Street does not comply with the Commission's order in Case No. 56. On the north side of the track the approach to the crossing is 8 percent and extends about 50 feet. In order to correct this, it may be necessary for the City to cooperate with the railroad.

There are no obstructions on the right of way of this crossing and the view of the railway crossing at grade from the highway is fair.

The view of the railway crossings at grade on Boulder Street and Platte Street is fair. These crossings are protected at present by gates located at the three railway crossings at grade and are operated by a towerman located at Boulder Street. The crossings are also protected in the form of bells operated by air pressure when the gates are lowered. The evidence developed the fact that there is no protection at these crossings after 6 o'clock p. m.

The Commission is of the opinion that these crossings should be further protected from 6 o'clock p. m. until 11 o'clock p. m., either by the installation of audible and visual signals, or by an additional towerman operating the gates from 6 p. m. until 11 p. m., and that warning lights should be installed upon said gates from dusk until 11 o'clock p. m. It is not feasible to eliminate these crossings.

Fountain Street:

This crossing is not especially important. The traffic census taken by representatives of the City of Colorado Springs on September 21st, 1916, between 6 a. m. and 8 p. m.

discloses the fact that 42 motors, 86 animal-drawn vehicles, 30 bicycles and 144 pedestrians traversed the same.

The physical condition of this crossing at grade does not comply with the Commission's order in Case No. 56 in that the east approach to the crossing has a grade of 15 percent for 25 feet and then 2 percent to the edge of the right of way, followed by an 8 percent grade beyond the railroad property line. This condition should be corrected and it will be necessary for the City of Colorado Springs to cooperate with the company in completing this work.

There are no obstructions on the right of way and the view of the railway crossing at grade from the highway is good. The crossing at present is protected by an automatic electric bell, which is deemed adequate. It appears neither necessary nor feasible to eliminate this crossing.

CASE NO. 91

The Denver & Rio Grande Railroad Co.

Twenty-five scheduled trains each day.

Sierra Madre Street Crossing:

This crossing is located on the outskirts of the town, and the traffic census taken by representatives of the City of Colorado Springs on the 21st day of September, 1916, between the hours of 6 a. m. and 8 p. m. shows that 35 motors, 68 animal-drawn vehicles, 31 bicycles and 208 pedestrians traversed the same. It is apparent from the evidence that certain grading and leveling must be done at this crossing by the carrier to make the crossing conform with the Commission's order in Case No. 56. There are no obstructions on the right of way and the view of the railway crossing at grade from the highway is good. The crossing at present is protected by an automatic electric bell, and, considering

the nature of the traffic at this crossing, it is the opinion of the Commission that the protection is adequate.

Las Animas Street Crossing:

The traffic census taken by the representatives of the City of Colorado Springs on September 22, 1916, between the hours of 6 a. m. and 8 p. m. shows that 44 motors, 62 animal-drawn vehicles, 42 bicycles and 127 pedestrians traversed this crossing. The use of this crossing is local in extent. The crossing does not conform with the Commission's order in Case No. 56 and it will be necessary for the carrier to do some grading and leveling work at this point. There are no obstructions on the right of way and the view of the railway crossing from the highway is good. The crossing is protected by an automatic electric bell, which appears to furnish adequate protection.

Conejos Street Crossing, (Manitou Branch):

The traffic census taken by representatives of the City on the 22nd day of September, 1916, between 6 a. m. and 8 p. m. shows that 124 motors, 220 animal-drawn vehicles, 111 bicycles and 521 pedestrians traversed the same. While the physical condition of the crossing is good, some leveling work is required to make it conform with the Commission's order in Case No. 56. There are no obstructions on the right of way, but the view of the railway crossing at grade from the highway is poor. There are but four trains operated on this branch line in the winter season, but in the summer the operation is greatly increased on account of tourist travel.

This crossing is not protected, but the evidence convinces the Commission that the trains are operated over this crossing at a low rate of speed. These trains should not exceed a maximum speed of five miles an hour.

The evidence pertaining to this crossing discloses that much switching is done in the vicinity of the crossing, but a greater portion of the switching does not take place on the crossing but to the east of the crossing. This switching is in such close proximity to the crossing, however, that an electric alarm would ring continually, tho no trains would be operating over the crossing. This, of course, would be deceiving and it would be but a short time until the signal would be entirely disregarded by the users of this crossing. It also was asserted that the continual ringing of a bell at this point, due to the switching of trains, would become a nuisance.

In the opinion of the Commission a member of the crew of each train, switch engine or light engine, should flag the crossing ahead of such train, switch engine or light engine.

Mesa Road Crossing:

The traffic census taken by representatives of the City of Colorado Springs on the 21st day of September, 1916, between 6 a. m. and 8 p. m. shows that 319 motors, 123 animal-drawn vehicles, 159 bicycles and 314 pedestrians traversed this crossing. The physical condition of the crossing is good, there are no obstructions on the right of way, and the view of the railway crossing at grade from the highway is good. This crossing at present is protected by a flagman and an automatic electric bell. The flagman is on duty from 6 a. m. to 6 p. m., altho at times he remains on duty for a longer period. This crossing is important and the traffic is by no means local.

In the opinion of the Commission the night traffic over this railway crossing at grade should be protected. It will be the duty of the defendant carrier to employ an

additional watchman to flag night traffic at this crossing until 12 o'clock midnight. It does not appear feasible to eliminate this crossing at this time.

Willamette Street Crossing:

The Willamette Street crossing is a passageway 11 feet in width, condemned by the City of Colorado Springs and opened under court order for pedestrian traffic. The crossing is located within the City of Colorado Springs. In the year 1914 the City of Colorado Springs communicated with The Denver & Rio Grande Railroad Company in regard to a subway to be constructed under the tracks of the defendant carrier on St. Vrain Street, which is located 660 feet from Willamette crossing. The evidence developed the fact that after some correspondence an ordinance was drawn by the City of Colorado Springs providing for a reinforced concrete subway to be constructed at the expense of The Denver & Rio Grande Railroad Company under the tracks of the defendant carrier at St. Vrain Street; and it further appears that the company proceeded without objection to build and complete at its own expense what is known as the St. Vrain subway at a total expense of about \$3000.00. Mesa Road is located 1286 feet from Willamette, giving a total distance from St. Vrain to Mesa Road of 1946 feet.

The evidence shows that the Willamette crossing is used by children and other residents of the City of Colorado Springs going to and from the playground in the park established by the City of Colorado Springs, and is commonly used as a passageway across the tracks of the defendant carrier. All parties agree that a watchman, wig-wag signal or gates will not adequately protect Willamette Street crossing, and that a subway is the only practical adequate protection, unless the street be closed. It was

suggested at the hearing by representatives of the railroad company that if a subway were to be built, it should be at another location several hundred feet from Willamette crossing and that the Willamette crossing should be closed, but it appears to the Commission from a careful study of the evidence that there is no other point where the subway could be constructed at this time, and that the Willamette crossing must be protected.

It is the contention of the railroad company that, as the St. Vrain pedestrian subway was completed in the year 1915, the City should have chosen another point at which to locate that subway and that the construction of the same was a mistake which has resulted in a demand for the Willamette subway at this time. The Commission is not ready to assume that the city was mistaken in the location of the St. Vrain subway, and even had the city officials made a mistake in judgment as to the traffic conditions and the growth of the city, the Commission is compelled to deal with the present necessity for the protection of this particular crossing.

The law of the State of Colorado pertaining to public utilities delegates to this Commission the duty of adequately protecting railway crossings at grade, and, while the Colorado law is not entirely satisfactory in this regard, as there appears to be no power granted to the Commission to apportion between the railroad and municipality or county the costs in each particular case in the separation of grades, or erection of viaducts or subways, the Commission undoubtedly has the power and the authority to provide for the proper protection of grade crossings at the expense of the railroad in the event it should appear equitable to the Commission for the railroad to bear the entire expense in any one case.

In the opinion of the Commission, the only adequate protection to be afforded at Willamette crossing is the construction of a reinforced concrete subway, eleven feet in width, under the railroad tracks of the defendant carrier, to be constructed under the supervision of the Commission's Engineer, after the Commission first has approved the plans for the same. The Commission is of the opinion also, after a careful examination of the record in this case, that, as a fair and equitable proposition, the municipality of Colorado Springs should bear a portion of the expense of the construction of this subway, which, after completion, should be maintained by the railroad company. The Commission is without apparent authority to order the municipality to pay a certain portion of this expense, but judging from the statements of the representatives of the City, is assured of hearty cooperation by the municipality of Colorado Springs in any feasible and fair arrangement for the proper protection of railway crossings at grade.

The City Commissioners of Colorado Springs evidently are awake to the situation confronting pedestrians and owners of automobiles in the State of Colorado and the railroads operating in Colorado Springs, and are desirous of using every effort to bring about a safer and better condition of travel under conditions existing today. The Commissioners of Colorado Springs recently adopted an ordinance requiring all drivers of automobiles to stop their machines before crossing any railway crossing at grade within the City of Colorado Springs where a protective device or signal is giving warning of the approach of a train, and have provided penalties for violation of this law. This step appears to be one in the right direction and is the best evidence of the desire of the officials of Colorado Springs to cooperate with the railroads in lessening the loss of life at railway

crossings at grade.

The Commission is of the opinion in this particular case that plans for a concrete subway under the tracks of the defendant carrier at Willamette Street grade crossing, similar to those used in the construction of the St. Vrain pedestrian subway, should be submitted by The Denver & Rio Grande Railroad Company to the City of Colorado Springs for its approval and then submitted to the Commission for the approval of the Commission's Engineer. Accompanying these plans should be a detailed estimate of the cost of construction. As soon as practicable after the approval of the plans and estimates by the Commission, and in the event the municipality of Colorado Springs agrees to bear twenty-five percent of the actual cost of the construction of the proposed subway, which cost is to be determined by this Commission after the completion of the work, The Denver & Rio Grande Railroad Company shall commence the construction of the subway at Willamette Street crossing and carry the work to completion.

ORDER IN CASE NO. 90

The Colorado Midland Railway Company, George W. Vallery, Receiver.

IT IS HEREBY ORDERED, That The Colorado Midland Railway Company, George W. Vallery, Receiver, shall install at the Nevada Street crossing, a red incandescent electric light to be operated from dusk until dawn and to be attached to the automatic electric bell now operated at that crossing.

IT IS FURTHER ORDERED, That The Colorado Midland Railway Company, George W. Vallery, Receiver, shall install and attach to the automatic bell at Tejon Street crossing, a red incandescent electric light, and operate the light from dusk until dawn.

IT IS FURTHER ORDERED, That The Colorado Midland Railway Company, George W. Vallery, Receiver, shall remove

the electric warning bell now located at Sierra Madre Street crossing from its present location to the center of said street, and attach thereto a red incandescent electric light to be operated from dusk until dawn.

IT IS FURTHER ORDERED, That The Colorado Midland Railway Company, George W. Vallery, Receiver, shall continue to operate the automatic electric bell at Eighth Street crossing and shall operate its trains over the said crossing at a speed of not to exceed five miles an hour.

IT IS FURTHER ORDERED, That The Colorado Midland Railway Company, George W. Vallery, Receiver, shall reconstruct the said Eighth Street crossing to conform to the Commission's order in Case No. 56.

ORDER IN CASE NO. 92

The Cripple Creek & Colorado Springs Railroad
Company.

IT IS HEREBY ORDERED, That The Cripple Creek & Colorado Springs Railroad Company shall continue to operate the automatic electric bell at Sierra Madre Street crossing, and shall operate its trains over this crossing at a speed of not to exceed five miles an hour.

ORDER IN CASE NO. 93

The Atchison, Topeka & Santa Fe Railway
Company.

IT IS HEREBY ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall install gates at the railway crossings at grade located at Espanola Street and Del Norte Street, said gates to be operated by a towerman in control of both sets of gates, or by two flagmen, one located at each crossing.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall submit to this Commission for its approval, the plans for the protection of the Espanola Street and Del Norte Street crossings prior to the installation of such protection.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall reconstruct the railway crossing at grade located at Wahsatch Street to conform with the Commission's order in Case No. 56.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company, at a point to be designated by the Engineer for the Commission, shall erect and install at Columbia Street and Corona Street crossings, an audible and visual signal of a type heretofore approved by the Commission.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall reconstruct the railway crossing at grade at Willamette Street to conform with the Commission's order in Case No. 56.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall reconstruct its railway crossing at grade at El Paso Street to conform with the Commission's order in Case No. 56.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall further protect the railway crossings at grade at El Paso Street, Boulder Street and Platte Street, by the installation of audible and visual signals at each crossing, or by an additional towerman operating the gates from 6 p. m. to 11 p. m.; and that, in event of the railroad company electing to operate the gates at night from 6 p. m. until 11 p. m., warning lights shall be installed upon the said gates.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall reconstruct its railway crossing at grade located at Fountain Street to conform with the Commission's order in Case No. 56.

IT IS FURTHER ORDERED, That The Atchison, Topeka & Santa Fe Railway Company shall efficiently operate and maintain all electric alarm bells, gates, flagmen, or other safety devices at present operated and maintained, at the above railway crossings at grade.

ORDER IN CASE NO. 91

The Denver & Rio Grande Railroad Company.

IT IS HEREBY ORDERED, That The Denver & Rio Grande Railroad Company shall reconstruct its railway crossing at grade at Sierra Madre Street to conform with the Commission's order in Case No. 56.

IT IS FURTHER ORDERED, That The Denver & Rio Grande Railroad Company shall reconstruct its railway crossing at grade located at Las Animas Street to conform with the Commission's order in Case No. 56.

IT IS FURTHER ORDERED, That The Denver & Rio Grande Railroad Company shall reconstruct its railway crossing at grade located at Conejos Street to conform with the Commission's order in Case No. 56.

IT IS FURTHER ORDERED, That The Denver & Rio Grande Railroad Company shall order a member of the crew of each train, switch engine or light engine, to flag ahead of each train, light engine or switch engine, before crossing its railway crossing at grade located at Conejos Street.

IT IS FURTHER ORDERED, That The Denver & Rio Grande Railroad Company shall employ an additional watchman at its railway crossing at grade located at Mesa Road to flag night traffic at this crossing until 12 o'clock midnight; or, in lieu thereof, shall install an audible and visual signal at this crossing at a point to be approved by the Commission's Engineer.

IT IS FURTHER ORDERED, That The Denver & Rio Grande Railroad Company shall efficiently operate and maintain all alarm bells, gates, flagmen, or other safety devices, at present operated and maintained at its railway crossings at grade within the City of Colorado Springs.

IT IS FURTHER ORDERED, That The Denver & Rio Grande Railroad Company submit to the City of Colorado Springs and to this Commission, plans and estimates for a reinforced concrete subway, of similar construction of the St. Vrain pedestrian subway, to be located under its tracks at Willamette Street grade crossing.

IT IS FURTHER ORDERED, That The Denver & Rio Grande Railroad Company, after having secured the approval of The Public Utilities Commission of the plans and estimates for the proposed subway, and after having received from the City of Colorado Springs an offer to bear twenty-five percent of the actual cost of the construction of the proposed subway (the actual cost to be determined by the Commission after the completion of the work), shall begin the construction of the concrete subway to be located at its railway crossing at grade at Willamette Street under the supervision of this Commission,

and after completion of the work, maintain the same at its expense.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. S. Stendall

Geo. T. Bradley

M. H. G. Smith

Dated at Denver, Colorado, this
14th day of December, 1916.

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO.

THE MISSOURI LUMBER & SUPPLY COMPANY,)
E. M. AMMONS,)
SAMSON MANUFACTURING COMPANY,)
SOUTH DENVER FOUNDRY COMPANY,)
THE GLOBE FUEL & FEED COMPANY,)
THE WESTERN CHEMICAL MANUFACTURING COMPANY,)
THE DENVER SHALE BRICK COMPANY,)
THE FLEMING BROTHERS LUMBER COMPANY,)
THE DUNCAN COAL COMPANY,)
J. B. RYCRAFT FUEL & FEED COMPANY,)
THE PLATTNER IMPLEMENT COMPANY,)
C. W. HALL COAL COMPANY,)
E. W. HURLBUT, and)
THE ANDERSON-HARRINGTON COAL COMPANY,)

Complainants,

v.

Case No. 28.

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY,)
CHICAGO, BURLINGTON & QUINCY RAILROAD COMPANY,)
THE CHICAGO, ROCK ISLAND & PACIFIC RAILWAY COM-)
PANY, J. M. Dickinson, Receiver,)
THE COLORADO & SOUTHERN RAILWAY COMPANY,)
THE DENVER & INTER-MOUNTAIN RAILROAD COMPANY,)
THE DENVER & RIO GRANDE RAILROAD COMPANY,)
THE DENVER & SALT LAKE RAILROAD COMPANY,)
THE NORTHWESTERN TERMINAL RAILWAY COMPANY,)
UNION PACIFIC RAILROAD COMPANY,)

Defendants,

THE CONSUMERS' LEAGUE OF COLORADO,

Intervenor.

Submitted April 5, 1916.

Decided December 18, 1916.

A P P E A R A N C E S:

J. W. Kelley, Esq., for Complainants.

Whitehead & Vogl, Esqs., for Intervenor.

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Messrs. Henry T. Rogers, Geo. A. H. Fraser, J. C. Burnett, for the defendant, The Atchison, Topeka & Santa Fe Railway Company.

Messrs. E. E. Whitted, T. R. Woodrow, for the defendant, Chicago, Burlington & Quincy Railroad Company.

Messrs. Wm. V. Hodges, D. Edgar Wilson, H. H. Healey, for the defendant, The Chicago, Rock Island & Pacific Railway Company, J. M. Dickinson, Receiver.

Messrs. E. E. Whitted, T. R. Woodrow, H. A. Johnson, for the defendant, The Colorado & Southern Railway Company.

Messrs. Gerald Hughes, H. S. Robertson, E. I. Thayer, for the defendant, The Denver & Inter-Mountain Railroad Company.

Messrs. E. N. Clark, Fred Wild, Jr., for the defendant, The Denver & Rio Grande Railroad Company.

Messrs. Tyson Dines, Tyson Dines, Jr., W. H. Paul, for the defendant, The Denver & Salt Lake Railroad Company.

Messrs. Tyson Dines, Tyson Dines, Jr., for the defendant, The Northwestern Terminal Railway Company.

Messrs. C. C. Dorsey, J. Q. Dier, E. I. Thayer, for the defendant, Union Pacific Railroad Company.

DENVER SWITCHING

By the Commission:

On July 6, 1915, complainants filed with the Commission a petition alleging that the postoffice address of the complainants is Denver, Colorado, and that the postoffice address of the defendant public utility corporations operating within the State of Colorado and within the City and County of Denver, is Denver, Colorado.

The petition further alleges that the defendants are charging, demanding and receiving unjust, unreasonable, burdensome, excessive, harmful, unlawful and discriminatory freight switching rates and charges for the switching of freight cars

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within the City and County of Denver.

It is further alleged that the City of Denver has a population of about 240,000 inhabitants and has within its boundaries an area of 59-1/4 square miles; and that the City of Denver is served by the defendants as common carriers in the carriage and conveyance of freight commodities usually supplied for the use of a large city and the inhabitants thereof, and that the defendant carriers have numerous freight switches and switching tracks departing from and connecting with their main lines and terminals, onto which the freight cars containing these freight commodities are switched and left upon arrival at Denver for the purpose of being unloaded by the consignee thereof; and that when the said freight cars are so moved and conveyed to the said switches and switching tracks by the said defendants, or any of them, there is imposed upon the contents of the said freight car a charge known as a switching charge in the sum of twenty cents per ton if the switch is made within a certain prescribed district, and twenty-five cents per ton if made from one industrial plant to another or within a certain district covering a wider area outside of the prescribed district; and that the freight switching charge, in some instances, is absorbed by the carrier which moves the freight cars and delivers them to the consignee, and in other instances is charged directly to, and paid by, the consignee as a part of the freight bill; that in all cases the freight switching charge is paid either by the consignee directly, or, indirectly, by the public.

It is further alleged in the petition that if the freight switching charge is paid indirectly by the public, it is represented in, and made a part of, the general freight rates of the defendant carriers; and that the freight switching service given by the defendant carriers in the City of Denver is provided and maintained by the carriers at a cost no greater

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than is incurred in switching in any other similar city in the United States, as the topography of the area, upon which the defendant carriers operate in the City of Denver, is comparatively level and the real estate comprising the terminal properties is extremely low in value, and as all other elements of the switching cost are reasonably small.

It is further alleged that the switching rates are so unfair and unreasonable as to cast a great burden upon the manufacturing plants of the City of Denver and the owners thereof, and that many of the manufacturing plants have been prevented from thriving and growing because of the excessive freight switching charges; and that these charges have prevented other manufacturing plants from being established and located in the City of Denver; and the petitioners pray for an order of this Commission declaring these rates and charges to be unreasonable, and establishing fair and reasonable charges for switching within the City of Denver.

The defendant carriers filed answers with the Commission denying generally that the rates and charges for switching within the City and County of Denver are unreasonable and excessive. The defendant carriers, Union Pacific Railroad Company and The Denver & Intermountain Railroad Company, attacked the jurisdiction of the Commission in this cause, and further alleged that exclusive jurisdiction over rates and charges for switching is vested in the Interstate Commerce Commission.

On the 19th day of July, 1915, the Consumers' League of Colorado, a corporation, filed a petition of intervention and the Commission ordered the Consumers' League of Colorado to be made a party, as provided by law in such cases.

This cause came on for hearing on the 30th day of September, 1915, before the Commission at its hearing room in the Capitol Building in the City and County of Denver, Colorado,

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at which time the Commission overruled the motions of the defendant carriers, Union Pacific Railroad Company and The Denver & Intermountain Railroad Company, attacking the jurisdiction of the Commission.

The parties to the cause introduced into the record the evidence of many witnesses sustaining their respective positions.

The sole question before the Commission for determination in this cause is whether the present reciprocal and industrial switching charges as demanded, collected and received for services performed by the several defendant carriers in the City of Denver, Colorado, are just, reasonable, and non-discriminatory.

The history of switching charges in the City and County of Denver is interesting, and the record discloses that prior to July, 1902, all switching charges were assessed on a per car basis. The charges ranged from \$3 to \$6 per car, depending upon location and distance. July 3, 1902, the Colorado & Southern Company published a tariff providing an industrial switching charge of 35 cents per ton, minimum \$5 per car, between all points on its own lines in the Denver terminal. At the same time its reciprocal switching charges were changed from a per car basis to a per ton basis, as follows:

\$3-per-car rate, changed to 20 cents per ton,
minimum \$3 per car,

\$4-per-car rate, changed to 30 cents per ton,
minimum \$4 per car,

\$5-per-car rate, changed to 35 cents per ton,
minimum \$5 per car,

\$6-per-car rate, changed to 40 cents per ton,
minimum \$6 per car.

These were the prevailing charges until September 10, 1902, when the industrial switching charge was changed to 25 cents per ton, minimum \$5 per car, and reciprocal switching was

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placed on a basis of 20 cents per ton, minimum \$3 and \$4 per car, within certain territory, and 25 cents per ton, minimum \$5 per car, beyond such territory.

Between July 3, 1902, and September 10, 1902, all other carriers operating in the City of Denver changed their tariffs to conform with the last mentioned charges made by the Colorado & Southern Company as shown above, which rates have remained in effect since. 20 cents per ton, minimum \$3 per car, and 25 cents per ton, minimum \$5 per car, on reciprocal switching, and 25 cents per ton, minimum \$5 per car, on industrial switching, therefore are the prevailing and uniform switching charges assessed by the carriers at present, and are the subject of attack in this proceeding.

As justification for changing from the per-car basis to the per-ton basis in assessing switching charges, the defendants cite the fact that at the time of the change a considerable portion of the trackage of the Denver terminals was three-rail. The tracks of the Union Pacific, Denver & Rio Grande and Colorado & Southern companies were three-rail at that time, and the Denver & Rio Grande was operating narrow gauge trains into and out of Denver, the capacity of narrow gauge equipment at that time being 16,000 pounds, and of standard gauge equipment from 32,000 to 60,000 pounds. About the years 1900 to 1902, the carriers began to purchase larger equipment. Narrow gauge cars of 50,000 pounds capacity came into general use and standard gauge equipment was increased in capacity from 32,000 and 60,000 pounds to 80,000 and 100,000 pounds capacities.

Owing to the increase in the capacity of their equipment, the carriers did not consider that they were receiving just compensation for the service performed under the then prevailing rates, and believed that, owing to the wide range in the

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capacity of equipment in use, a charge based upon tonnage would be more equitable than a per-car charge. No testimony was introduced to show what effect this change had upon the revenues of the carriers. It is obvious, however, that the change was beneficial to them, as in every instance the old flat rate per car was made the minimum charge under the new tariffs.

The parties defendant in this case represent every steam road operating in the City of Denver. The terminals of some are extensive, while those of the others are small and inconsequential, insofar as their mileage and the volume of business done are concerned. The mileage within the Denver terminals is as follows:

Chicago, Burlington & Quincy R. R.....	39.60
Colorado & Southern Ry.....	107.50
Denver & Inter-Mountain R.R.....	5.00
Denver & Rio Grande R. R.....	37.00
Northwestern Terminal Ry.....	9.00
Union Pacific R. R.....	71.00
Total	269.10

The Atchison, Topeka & Santa Fe Railway has approximately 8 miles of track in the Denver terminal, the same being included in the figure shown for the Colorado & Southern Railway, as the operations of these two carriers are handled jointly. The Chicago, Rock Island & Pacific Railway owns no tracks in the City of Denver, but operates jointly with the Denver & Rio Grande Railroad. The Denver & Salt Lake Railroad has no terminals, but operates over the tracks of the Northwestern Terminal Railway.

The length of the combined terminals is approximately ten miles, extending through the City in a northerly and southerly direction, and the width is one to three miles, extending in an easterly and westerly direction, with the Union Depot situated approximately in the center. All of this mileage is available to all shippers seeking switching service under the prevailing rates as shown, with the exception of a few industries located

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in isolated places outside of the established switching zone.

The testimony and exhibits show that almost all of the industries using track facilities are located within a radius of two miles from the Union Depot, the greater number being within one mile and comparatively few being more than two miles distant.

It appears that the defendant carriers in this case apply the same general principles in assessing switching charges in the Denver terminal as they and other carriers apply at other terminals, particularly in regard to absorbing switching charges on carload freight from, or destined to, competitive points; also in regard to making a somewhat higher charge for industrial switching than for reciprocal switching. In addition to absorbing switching charges on carload freight to and from competitive points, the defendant carriers also follow the practice of absorbing switching charges on competitive commodities, on both interstate and intrastate business. Practically all of the carriers operating in Denver, especially the larger lines, carry the following clause in their tariffs:

"Foreign line switching charges will be absorbed on carload traffic originating at a junction point of a foreign line destined to a junction point of a foreign line, or when originating beyond junction point interchanged with a foreign line at a junction point, both the original point and point of destination being junction points of foreign lines."

All Missouri River points and points east thereof, as well as all Pacific Coast points, are considered competitive. In addition, most points in Nebraska, Kansas, Oklahoma and Texas are considered competitive points, and switching charges on shipments from these points are absorbed by the carrier performing the line haul. On the other hand, most intrastate business handled in the Denver terminal either originates at or is destined to non-competitive points, and on all such shipments the shipper is compelled to pay a charge where switching service is performed, except when the commodity is classed as competitive,

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in which event the carrier performing the line haul absorbs the switching charges. The shipper pays no part of a competitive point switching charge, except as the charge may be reflected in the line haul.

It should be noted that there is some variation in what the different carriers consider competitive commodities, there appearing to be no fixed rule or practice; it seems to be entirely a matter of local concern to each carrier, depending principally upon its desire to build up traffic on its own line. Competitive commodities in a general way consist of heavy articles, such as lime, cement, lumber, stone, etc. Coal is considered a competitive commodity by all carriers and constitutes a large volume of their business.

The smaller lines which are parties defendant in this case did not participate at the hearing to the extent of offering testimony. The four larger lines, to-wit:- The Colorado & Southern, the Chicago, Burlington & Quincy, The Denver & Rio Grande and the Union Pacific companies, offered considerable testimony to substantiate their positions and to show that the prevailing switching charges were not unreasonable.

Figures were submitted by the larger carriers showing the amounts received for switching in the City of Denver for the fiscal year ended June 30, 1915. The following statement gives in detail the amounts received from reciprocal and industrial switching and the amount the carriers absorbed:

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	<u>Total Amount Received</u>	<u>Received from Connecting Lines</u>	<u>Per cent of Total</u>	<u>Received from Industrial Switching</u>	<u>Per cent of Total</u>
CB&QRR	\$ 64,056.33	\$ 63,710.91	99.46	\$ 345.42	0.54
C&SRy	159,949.58	141,370.86	88.38	18,578.72	11.62
D&RGRR	49,280.61	48,915.94	99.26	364.67	0.74
UPRR	33,828.45	32,711.12	96.69	1,117.33	3.31

	<u>Paid Connecting Lines</u>	<u>Absorbed</u>	<u>Per cent of Switching Charges Absorbed.</u>
CB&QRR	\$ 33,812.10	\$ 24,047.70	71.12
C&SRy	43,328.57	40,647.34	93.81
D&RGRR	47,003.35	38,693.59	82.34
UPRR	81,490.59	66,595.83	81.70

These figures represent the entire switching business done during the period shown, and include both interstate and intrastate traffic. From this statement it will be seen that the switching charges absorbed by the carriers range from 71.12 per cent. of connecting-line switching, in the case of the Chicago, Burlington & Quincy Railroad Company, to 93.81 per cent., in the case of the Union Pacific Railroad Company, the average of the four companies being 82.24 per cent.

The American Railway Association has estimated that the depreciation, up-keep and interest on investment of a freight car approximates 45 cents per day, which amount represents the per diem charge carriers assess against foreign lines for the use of equipment. The defendants estimate that the average detention to freight cars in switching service in the Denver terminal is 5 days, and by general agreement the line receiving the car to be switched to an industry on its lines is permitted to make a re-claim against the delivery road for 5 days' time at 45 cents per car per day, or a total of \$2.25 for each car so switched. This is intended as an offset for the amount the receiving line is compelled to pay the owner of the car for the time it is in its possession.

The Colorado & Southern Railway Company and the Chicago,

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Burlington & Quincy Railroad Company introduced testimony and exhibits to show in detail the estimated value of their terminals, the revenue derived therefrom and the cost of operation. The Denver & Rio Grande Railroad Company also offered testimony along the same lines, but in less detail.

A summary of the valuation of the Denver terminal of the Colorado & Southern Company, as shown by the exhibits introduced by that Company, is as follows:

C. & S. Ry. Co. Exhibit No. 1 (J.H.B.)

Tracks, as valued by Chief Engineer		\$1,747,761.00	
Less tracks used for passenger traffic		<u>62,903.64</u>	\$1,684,857.36
Real estate and Right of Way, as valued by Real Estate Commis- sioner		6,734,518.00	
Less land now covered by lease to indus- tries	\$873,429.00		
Land included in Coach yards	<u>514,550.00</u>	<u>1,387,979.00</u>	5,346,539.00
Value of switch engines assigned to and used in Denver Terminal Freight service			<u>191,701.83</u>
Total value of property in Denver Terminal devoted to freight railroad business			\$7,223,098.19

For the purpose of presenting evidence in this case, the Colorado & Southern Railway Company made an extended study of the terminal freight car movement on its tracks in the City of Denver, together with summaries of the terminal expense. In compiling these statistics the month of March, 1915, was selected as fairly representative of the traffic handled during the entire year. In ascertaining the terminal movements of the cars handled, the Company followed the method adopted by the Wisconsin Railroad Commission in the Milwaukee Switching Case

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14 Wis. R. C., 261. The data comprising these exhibits was collected and assembled entirely by the officers of the railway company, and this Commission has made no verification of the same.

EXHIBIT NO. 5 (J. H. B.)

THE COLORADO & SOUTHERN RY. CO.

DENVER TERMINAL, MONTH OF MARCH, 1915.

Table Showing Mileage Made and Number of Times Handled by Road and Switch Engines.
Classified According to Types of Movement.

Type of movement.	No. of Cars	Per cent total Cars	Road Engine	Miles	Per cent Total miles	Times handled	Per cent total times	Switch engine	Miles	Per cent total miles	Times handled	Per cent total each car times moved
Through	794	6.08	.....	6,949	13.71	1,588	13.87	....	321	1.08	1,803	4.19
Av. miles			Per Car	8.75		2.00		....	.40		2.27	4.95
Outbound	2,382	18.25	.....	11,061	21.83	2,382	20.80	....	4,919	16.54	6,880	16.00
			Per Car	4.64		1.00			2.07		2.89	6.30
From Connection..	2,037	15.60	.....	10,650	21.02	2,037	17.79	....	2,611	8.78	3,314	7.71
Outbound			Per Car	5.23		1.00			1.28		1.63	3.55
Inbound	3,089	23.66	.....	12,813	25.29	3,089	26.97	....	8,474	28.48	12,227	28.44
			Per Car	4.15		1.00			2.74		3.96	8.63
Inbound to.....	2,355	18.04	.....	9,199	18.15	2,355	20.57	....	2,881	9.68	6,408	14.91
Connections			Per Car	3.91		1.00			1.22		2.72	5.93
Terminal	2,399	18.37	.....					....	10,543	35.44	12,355	28.74
									4.39		5.15	11.22
Total	13,056	100.00	.....	50,672	100.00	11,451	100.00	....	29,749	100.00	42,987	100.00
Avr. mlge. and hldgs.				4.75		1.07			2.28		3.29	7.17
Office General Auditor.						Total cost						
Denver, Colo., Sept. 29, 1915.						\$93,654.71						
						Total number						
						of movements						
						42,987						
						Average cost per						
						each movement						
						2.1787						

EXPLANATORY NOTES TO FOREGOING

EXHIBIT J.H.B. NO.5.

Through movements, consist of straight C. & S. Ry. through movements.

Outbound movements, consist of shipments originating in Denver terminal, on C. & S. Ry. tracks and going out via C. & S. Ry.

From connections outbound, consist of shipments received in Denver from connections, regardless of originating point, and leaving Denver via C. & S. Ry.

Inbound movements, consist of shipments coming into Denver via C. & S. Ry. and delivered to consignee by C. & S. Ry.

Terminal movements, consist of shipments from one industry on the C. & S. Ry. in Denver terminal to another and from connections to industries on C. & S. Ry. in Denver terminal, and from industries on C. & S. Ry. in Denver terminal to connections.

Inbound to connections, consist of shipments coming into Denver via C. & S. Ry. and delivered to connections regardless of destination.

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The Colorado & Southern Railway Company
(Exhibit No. 3 (J.H.B.))

Hire of Equipment Valued on Per Diem of 45 cents,
Allowance for Loading and Unloading Each
Car on Free Time Being Two Days.

Repairs -			
Per diem.....	\$	.45	
Per diem each car per year.....		164.25	
Less interest and depreciation.....		108.00	
Repairs per car per annum.....		56.25	
Repairs per car per day.....		.1541	
13,056 cars @ \$.1541 per day.....		2,011.93	
13,056 cars @ \$.1541 for two days.....			\$ 4,023.86
Depreciation -			
Average value freight car.....	\$	900.00	
Depreciation per car per annum @ 6%.....		54.00	
Depreciation per car per day.....		.1479	
13,065 cars @ \$.1479 per day.....		1,930.98	
13,065 cars for two days.....			3,861.96
Interest -			
Interest figured same as above.....			<u>3,861.96</u>
Total for one month.....			\$11,747.78

The Colorado & Southern Railway Company.
Summary (J.H.B.)

Denver Terminal Freight Expense for One Month.

Interest on property used....		\$36,115.49	
Taxes.....		6,964.27	
Interest, depreciation and repairs to freight cars used in terminal service...		11,747.78	
Operating expenses:			
Maintenance of way.....	\$	7,618.38	
Maintenance of equipment...		4,025.15	
Transportation.....		25,428.06	
General.....		<u>1,755.58</u>	
Total.....			38,837.17
Total cost of switching in Denver Terminals.....			\$93,654.71
Total number of loaded cars handled in Denver Terminals during month of March 1915			13,056
Average cost per loaded car..			7.17
Average tons per loaded freight car		22.57	
Average cost per ton.....			.32

A summary of the data and evidence introduced by the
Chicago, Burlington & Quincy Railroad Company as to the value of its
terminals and the cost of operating the same is as follows:

Track and track equipment.....	\$1,156,626.00
Real Estate.....	6,389,403.45
Walnut and Blake St. tracks.....	465,279.99
Eleven switch engines.....	<u>96,190.00</u>

Total \$8,107,499.44

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This statement excludes the value of real estate occupied by coach yards, includes \$600,000. value of leased lands, includes \$600,000. approximate value of vacant land not used for any purpose, and includes property used jointly in freight and passenger business.

The following is a summary of the exhibits introduced by the same company, showing interest on investment, taxes and operating expenses applicable to freight switching in the City of Denver for the year ended June 30, 1915:

Interest on value of land	\$377,594.21
Interest on value of improvements....	69,397.56
Interest on value of Market and Blake St. tracks.....	27,916.80
Taxes, interest on value of switch locomotives and depreciation, interest and repairs on freight cars.....	168,355.52
Operating expenses.....	<u>188,241.95</u>
Total cost freight switching, Denver yard.....	\$ 831,506.04
Total number of loaded cars handled in Denver yard year ending June 30, 1915.....	93,689
Average cost per loaded car handled.....	\$8.875

Mr. Fred Wild, Jr., Freight Traffic Manager of the Denver & Rio Grande Railroad Company testified on behalf of that Company as to the value of its Denver Terminal and cost of operation. Mr. Wild frankly admitted that his statements were mere estimates compiled from data furnished him by the General Auditor and Chief Engineer. A summary of his testimony is as follows:

Value of Terminal.....	\$3,000,000.00
Value of switch engines.....	<u>90,000.00</u>
Total value	\$3,090,000.00

Expenses chargeable to Denver Terminal
for month of June, 1915:

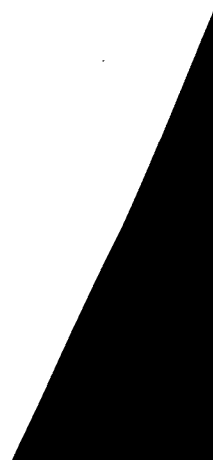
Interest on value of \$3,000,000. at 7%.....	\$ 17,500.00
Interest on value of switch engines.....	525.00
Taxes.....	21,275.00
Operation.....	<u>19,763.66</u>
Total	\$ 41,038.66

Number of loaded cars handled month of June, 1915...	6,364
Average cost per loaded car....	\$ 6.45
Average number of tons per car handled.....	22.18
Average cost per ton.....	\$.29

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In the statement of the Colorado & Southern and Chicago, Burlington & Quincy Companies, interest is computed at six per cent, while in that of the Denver & Rio Grande it is seven per cent. It will be noted that the cost of switching cars in the Denver Terminal based on the statements and testimony of the several defendants herein varies in every instance. These statements show that the cost to the Chicago, Burlington & Quincy Company is \$8.87 per car; to the Colorado & Southern Company \$7.17 per car; and to the Denver & Rio Grande Company \$6.45 per car.

In the exhibits of the Colorado & Southern and the Denver & Rio Grande Companies, these figures were reduced to a cost per ton basis as follows:

C. & S. Ry.....	32¢ per ton
D. & R. G. R. R.....	29¢ per ton

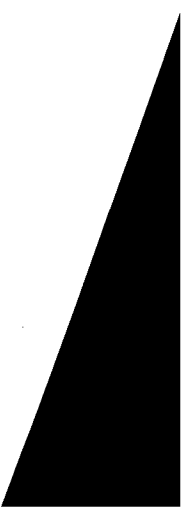
The practice of absorbing connecting lines' switching charges on carload freight to or from competitive territory is universal with all carriers throughout the United States. It is a condition forced upon the carriers by competition. The custom dates back to the beginning of competitive business between carriers, and is now so interwoven in the fabric of traffic conditions that it would be almost impossible to eliminate the practice, even if the carriers desired to make the change. This fact is fully recognized by all regulatory bodies. The defendants in this case assume the position that so long as the carriers themselves absorb and pay connecting line switching charges on competitive business, it is of no concern to the shipper, as he pays no part of it and the same rate would apply whether switching charges were absorbed or not. Theoretically this may be true, especially as applied to an isolated shipment. However, to properly determine this question, it is necessary to consider the situation as a whole, rather than particular instances.

In the opinion of the Commission, this conclusion of the carriers is based on an erroneous premise and cannot stand in the light of reason and logic. The carriers have but one source of revenue: that derived from transportation in one form or another. The grand aggregate of this revenue should be sufficient

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to cover the expense of operation, maintenance and a reasonable return upon the investment as a whole. There are many elements which go to make up freight rates, and it must be presumed that in fixing rates the carriers have taken into consideration the item of cost of service. It cannot be presumed that the carriers, when establishing a certain rate from a competitive point to the City of Denver, have any way of knowing the number of shipments upon which they will be required to absorb connecting lines' switching charges. It can be assumed, however, that they expect to absorb switching charges on a portion of the shipments, and, as the expense incident thereto is a direct charge against operation, it is only logical to conclude that such expense was considered when the rate was established, and therefore a direct charge against shippers. The sole purpose of absorbing connecting lines' switching charges is to secure the line haul which otherwise would go to competitors; and to foster and build up traffic on competitive commodities located on the lines of the respective carriers, and in this way secure a volume of business which could not be obtained otherwise.

In the first instance, reciprocal switching charges are a matter of agreement among the various carriers affected. It is a method by which one carrier secures the advantages of another carrier's terminal under a reciprocal agreement. It is intended, and ordinarily is the case, that such charges shall offset each other, especially as applied to all of the terminals on a large system. However, in considering one terminal alone, as in the present case, it is quite natural that the carrier having the largest terminal and the most industries to serve receives a distinct benefit which does not accrue to the line having a small terminal. Reciprocal switching charges have an indirect, if not a direct, bearing

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on rates, and therefore are subject to regulation by the Commission. Such charges, in the light of all circumstances and conditions, must be reasonable and non-discriminatory.

Section 13 (a) and Section 23 (a) of the Public Utilities Act read as follows:

"Section 13. (a) All charges made, demanded or received by any public utility, or by any two or more public utilities, for any rate, fare, product or commodity furnished or to be furnished or any service rendered or to be rendered shall be just and reasonable. Every unjust or unreasonable charge made, demanded or received for such rate, fare, product or commodity or service is hereby prohibited and declared unlawful."

"Section 23. (a) Whenever the commission, after a hearing had upon its own motion or upon complaint, shall find that the rates, tolls, fares, rentals, charges or classifications, or any of them demanded, observed, charged or collected by any public utility for any service, or product or commodity, or in connection therewith, including the rates or fares for excursion or commutation tickets, or that the rules, regulations, practices, or contracts, or any of them, affecting such rates, fares, tolls, rentals, charges or classifications, or any of them, are unjust, unreasonable, discriminatory, or preferential, or in any wise in violation of any provision of law, or that such rates, fares, tolls, rentals, charges, or classifications, are insufficient, the commission shall determine the just, reasonable or sufficient rates, fares, tolls, rentals, charges, rules, regulations, practices, or contracts to be thereafter observed and in force, and shall fix the same by order as hereinafter provided."

The testimony of the Defendants in this case was intended to show that they were not receiving a fair return upon the value of their terminals, their defense being predicated on the assumption that the value of their terminal property should be separated from the other part of their property and that they were entitled to earn a fair return upon the value of the property so segregated. This Commission cannot agree with that theory, but on the contrary is inclined to believe that terminal property is no more or less important in the transaction of the business of the carriers than any other part of their systems. Their main lines and their terminals must be considered together. Either would be practically valueless without the other.

A study of the exhibits introduced in this case indicates very clearly that a large percentage of switching performed

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in the Denver terminal is associated with a road movement and that the expense incidental thereto should not be assessed entirely against the terminal property. In I. & S. Docket No. 572, Lighterage and Storage Regulations at N. Y., 35 I.C.C., 47, the Interstate Commerce Commission said:

"Carriers cannot segregate a terminal service, heretofore treated as a part of transportation service covered by the freight rate, and assign to it a separate charge, without taking into consideration the entire through service of which it forms a part and the compensation heretofore received for such through service."

There is probably no large railroad terminal in the country where the revenues derived from switching after deducting cost of operation, maintenance and taxes would give a carrier a fair return on the investment represented by that terminal, if the value of the same be considered separate and apart from the balance of the system; and it is not expected that it would. As an illustration, the Colorado & Southern Company, one of the Defendants in this case, claims that the average cost of switching a loaded car in the Denver terminal is \$7.17. This Company operates a line of railroad both north and south of the City of Denver. Assuming that a loaded car moves over its line from Pueblo to Greeley, it necessarily passes through the Denver terminal. The tariff rate applying on such shipment contemplates not only the line-haul service, but the Denver terminal service as well. The entire revenue derived and expense incurred in transporting such a shipment should be spread over the entire mileage. The same is true of any similar shipment. It naturally follows that it would be unfair to charge the entire terminal cost against the investment in the Denver terminal. It is equally unfair to expect shipments from non-competitive points, on which a shipping charge is exacted, to pay the entire cost of operating the terminal.

The Interstate Commerce Commission in numerous cases has found that large railroad terminals are not self-sustaining.

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In Louisville & Nashville R. R. Coal and Coke Rates, I. & S.
Docket No. 71, 26 I. C. C., 20 (29) the Commission said:

"Hence whether or not the record indicates profit on the particular division is not controlling, as the incidental benefit to the other portions of the system may much more than offset any loss upon the particular division. It is to be expected that an originating division would apparently not be self-supporting any more than would the average large terminal in a city. To make them self-supporting it is necessary to assign to the originating division and to the terminal a sufficient portion of the revenues to more than offset the expenses. This would have to be an arbitrary sum. It could hardly be accomplished by the ordinary method of prorating the revenue or dividing it under a block-mileage system."

The carrier with large terminal facilities has a distinct advantage and value over the carrier with small terminal facilities, other than the revenue derived from switching service, in that it has the direct means of securing business from shippers located on its line which it could not obtain otherwise. The Commission believes that this value should be given consideration. While it is impossible to estimate what this value is to a carrier, it is known to be great, which fact is recognized by the carriers themselves. It is only natural that a shipper should route the major portion of his shipments over the line owning the terminal on which his establishment is located, or, if he is located where it is necessary to load or unload from team tracks, that he naturally would use the line located nearest to his place of business.

The Defendants herein allege that if an order is made in this case which would result in a decrease in switching charges on intrastate business, it would result in placing an undue burden on interstate traffic. This allegation is not borne out by the evidence. On the contrary, it is clearly evident from the record that under the present plan of absorbing switching charges on carload freight to and from competitive points, the burden falls most heavily on intrastate shipments. This is accounted for by the fact that a substantial part of

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the interstate business moving into and out of the Denver terminal is considered competitive and therefore the switching charges are absorbed by the carriers, while on most of the intrastate shipments moving into and out of the terminal, except such commodities as are treated as competitive, the shipper is compelled to pay the switching charges himself; thus in effect penalizing the local shipper as against the advantages accruing to a shipper of interstate freight.

While it may not be entirely germane to the question before it, the Commission nevertheless feels that it would not be out of place to state that in its opinion it would be advantageous to all concerned if the carriers would treat the entire terminals of the City of Denver as a unit, and so adjust their tariffs and rates that they could absorb switching charges on all traffic, whether competitive or not. This principle was recognized and upheld by this Commission in Case No. 6, Consumers' League of Colorado v. Colorado & Southern Railway Company, et al, 1st Annual Report, Colo P. U. C., 163, wherein it said:

"The Commission believes, and so finds, that for the entire haul from any mine situated on any of the lines of defendants in the Northern Coal Fields to the City of Denver, and including a switching charge to connecting or foreign carriers, the rates of 65 cents on lump, 60 cents on mine-run, and 55 cents on slack would be a reasonable charge; this charge to include the line haul as well as switching charges necessarily involved in spotting cars on industries within the limits of the City of Denver, and including delivery to connecting or foreign carriers.

"The Commission has reached this conclusion after long and laborious work in endeavoring to reconcile the opinion of Judge Perry with the previous opinions of this Commission. We believe it would be disastrous to the mines, the carriers, and the dealers, if two charges were permitted to exist at one and the same time."

Whatever legal objections there might have been in promulgating the order in that case were overcome by the Commission in joining the defendants in an order requiring them to publish through rates from the mines to all points in the

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City of Denver and allowing them to divide the revenue on any basis satisfactory to them.

The Commission is inclined to the view that it is to the best interests of all concerned for the carriers to apply, within reasonable bounds, the blanket method of assessing switching charges, rather than for them to divide their terminals into small zones and assess a different charge for each zone. By applying the blanket system, each shipper is placed on an equality with his competitors, regardless of his location in the terminal, so long as he is located within a reasonable prescribed switching area. So far as the cost of service is concerned, it matters little to the carrier whether a car is moved a distance of one city block or one mile. The Interstate Commerce Commission, in I. & S. Docket No. 211, In re Switching Charges at Sheffield, Minnesota, 26 I. C. C., 475, said:

"It is very difficult to fix any figure which will be in all cases just for the performance of a switching service. So much depends upon the conditions of each case that no universal rule can be laid down. It is our impression that the usual charge for the ordinary switching service in the territory under consideration is from \$2 to \$3 per car.

"The defendant contends that this switch movement is abnormal in that the length of the haul is 3 miles. This is undoubtedly a much longer haul than the normal movement and may properly call for increased compensation, but the defendant overestimates the weight which should be given this circumstance. Looking merely to the out-of-pocket cost of the service, it is not of great significance when the car is once upon the main line in charge of the switch engine and crew, whether it be moved a thousand feet or three miles. The time, and therefore the expense, incident to a switch movement comes largely from the delay in sorting out a particular car and placing it in a particular place. While the length of the haul in this instance should receive substantial recognition, it does not multiply the charge, as the defendant apparently contends."

While the more important lines, parties defendant in this case introduced elaborate tables to show the cost of switching service, it is evident nevertheless from the record that in the past they have paid little, if any, attention to this cost in assessing switching charges. This is evidenced from the fact that the cost to each line is different, while the

cost is uniform. There is

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no reason to doubt the accuracy of the figures submitted by the several defendants herein, but the Commission cannot agree entirely with the formula used in arriving at the unit cost. It is evident that some consideration should have been given to the empty car movement through the Denver terminal. Undoubtedly, there is quite a movement of empty equipment through the terminal having no connection or association with the loaded car movement, and if this factor had been considered in the compilation of the exhibits, it would have resulted in showing a marked decrease in the cost per car as shown by the exhibits introduced in the case.

The Railroad Commission of Wisconsin, In re C. M. & St. P. Switching Rates in Milwaukee, 14 W. R. C. R., 261, made an elaborate analysis of switching service and costs of the Chicago, Milwaukee & St. Paul Railway Company in its Milwaukee terminal, and found that it would be impracticable to fix a switching rate which would vary with distance, owing to the fact that in many instances it would result in prohibitive rates. The elements of costs and distance were disregarded, therefore, except for the purpose of arriving at an average. An order was entered prescribing a uniform rate for switching service to all points in that terminal. In that case, the Commission said (270):

"It is evident at once that if each movement be called upon to pay a rate exactly equal to the estimated average cost of performing the service, and including in such cost all indirect or overhead costs and dividends, many of the movements could never be made on account of the prohibitive rate. The carrier should be satisfied with a rate which, while not covering all the items upon which it is entitled to a return, will nevertheless pay all the direct costs and assume a share of the burden of indirect costs. This reasoning is in line with principles often applies in tariff making in general."

The Commission can find no fault with the carriers for changing the switching charges from a flat rate per car to a per ton basis, but is inclined to the belief that the per ton method is much more equitable and fair than a flat charge per

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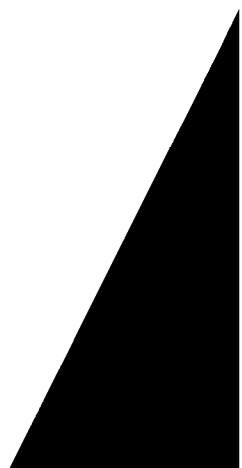
It certainly is worth more to a shipper to have a 50-ton car switched than it would be to have a 20-ton car moved. While the cost of service to the carrier may be more in one instance than in the other, it is evident that such increase is merely nominal. There is, however, a certain fixed cost in every switching movement, and the Commission feels that the carrier should be permitted to continue the practice of assessing a minimum charge for each car switched, regardless of weight.

There is a substantial difference between reciprocal and industrial switching. The latter is distinguished from the former by the fact that it is not associated with a line haul and is a more expensive service to the carrier. This difference is generally recognized and a somewhat higher charge is made for this class of service. Ordinarily, industrial switching is merely incidental compared with other terminal services rendered by a carrier. The record indicates that this is particularly true in the case before us. Exhibits introduced by the defendants show that the percentage of revenue derived from industrial switching, as compared to the total revenue received on account of switching, is as follows: Union Pacific 3.31 per cent, Denver & Rio Grande .74 per cent, Chicago, Burlington & Quincy .54 per cent, and the Colorado & Southern 11.62 per cent, the general average for the four lines being 6.62 per cent. Industrial switching is in a sense competitive with the drayage business. This fact should receive more or less consideration in determining what would be a fair rate of charge for such service. There should, however, be a fair ratio between the two classes of switching service - reciprocal and industrial. Local conditions undoubtedly have a material bearing on this situation. An effort was made by the complainants to show that switching conditions in the City of Denver were unusually favorable, while the defendants undertook to show that the conditions were decidedly unfavorable. The Commission is not impressed with the showing made by either

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side in this particular. It can find nothing in the record warranting a belief that switching conditions in the City of Denver are materially different from conditions prevailing in other cities of equal size and importance. Bearing this in mind, the Commission is impressed with the fact that the revenues from industrial switching are inconsiderable as compared to the total switching revenue. It is difficult to account for this condition unless it be that shippers find it cheaper to use drayage.

It was alleged by the complainants, and an effort was made by the introduction of testimony to prove the allegation, that excessive switching charges within the City of Denver were the direct cause of the abandonment of manufacturing plants within the City of Denver, and the contention was also made that switching charges within the City of Denver were so excessive as to be prohibitive to prospective manufacturing industries. The testimony was not such as to convince the Commission of the truth of the allegations. If the manufacturing industries of Denver and Colorado have been handicapped by excessive charges of common carriers, it is due to the freight rates into and out of Colorado, rather than the switching charges within the City of Denver. The Commission already has filed a case, in behalf of the State of Colorado, with the Interstate Commerce Commission in an effort to bring about an effective readjustment of alleged excessive freight rates into and out of the State of Colorado, and if the allegations contained in the complaint of The Public Utilities Commission and The Fair Freight Rates Association are sustained by the Interstate Commerce Commission, much-needed relief will be given immediately to Colorado manufacturing industries.

Mr. J. K. Mullen, one of the witnesses for the complainants in this case, a gentleman who has been engaged in the flour

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and milling business in the City of Denver for many years, and who is recognized as one of the representative business men of that City, testified that in many instances he found it cheaper to dray his product than to avail himself of the service of the railroads on account of their charge of 25 cents per ton. He also testified that the usual charge for drayage by electric and auto trucks is one cent per hundred pounds. The Commission believes that the testimony of Mr. Mullen clearly indicates the reason why the revenues from industrial switching are of such small proportion, and feels that if a reduction should be made in the rate for this class of service it would enable the carrier to meet this competition, and, instead of resulting in a loss, would result in an increase of revenue from this source.

In arriving at what would be a reasonable switching charge, both reciprocal and industrial, in the City of Denver, the Commission will resort to a comparison of charges exacted at other places of like size and importance. There are many precedents for this. In fact, the defendants, as well as the complainants, in this case, relied upon this method to prove their contentions. The Interstate Commerce Commission has used this method repeatedly in arriving at conclusions in respect to switching rates, except where peculiar local conditions warranted special consideration. In the case of Transportation Bureau of Seattle v. G. N. Ry. Co., 30 I.C.C., 683, the Commission said:

"We are of . . . opinion, however, that in the instant case we may attempt the task upon such data as are presented to us, consisting largely of our comparisons of other terminal rates."

See also American Creosote Works v. I. C. R. R. Co., 18 I.C.C., 212; In re Wharfage Charges at Galveston, 26 I.C.C., 695; National Casket Company, et al. v. S. R. Co., 31 I.C.C. 678.

Many other cases might be cited to show that the Interstate Commerce Commission has used this method, not only in switching cases, but in rate cases as well.

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One of the allegations of the petition was that the average rate for switching service throughout the country was \$2 per car. The Commission is inclined to believe this to be the fact, since that is the opinion of the Interstate Commerce Commission also. In the case of Spiegle v. S. R. Co., 25 I.C.C., 71, (75) the Commission said:

"The charge of switching made by the Southern Railway is in some cases as low as \$1.50, and in some cases as high as \$3.00. The usual charge is about \$2.00 per car, and this is perhaps the average charge in the country as a whole."

However, in that case the Commission did not attempt to convey the impression that it was a reasonable charge for all terminals. It simply averaged the charges in both small and large terminals in arriving at its conclusion. In the case of the National Casket Co., v. S. R. Ry. Co., Supra, the Commission, in referring to the Spiegle case, Supra, said:

"It may be stated that our estimated cost of \$2 per car in the Spiegle case was not based upon a single-car movement at any particular point. It contemplated that \$2 per car was a fair average charge for the service under all the varying circumstances and conditions obtaining at different points."

From this it is plain that the Interstate Commerce Commission does not recognize the fact that a rate of \$2 per car is a fair or compensatory charge at all terminals. This is emphasized by the fact that that tribunal has rendered many decisions upholding a much larger rate for switching service, as evidenced by the following citations: Slider v. S. Ry. Co., 24 I.C.C., 312; Public Service Commission of Washington v. N. P. Ry. Co., 23 I.C.C., 256; In re Alexandria, Va., Switching Charges, 29 I.C.C., 381; Curtis Bros. & Co. v. S. P. Co., 23 I.C.C., 372; Botsford & Barrett v. P. R. R. Co., 29 I.C.C. 469.

The Commission has made a careful survey of switching charges and practices at many places throughout the country, and has found wide variation in the methods of assessing switching charges. It appears that in large terminals the general tendency is towards a per-ton basis, rather than a flat rate

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per car. In some cases a car rental charge is made in addition to the switching charge. In other instances, terminals are divided into small arbitrary zones and a different rate of charge applied to each zone. From the research made, it is apparent that as a general thing the charges are higher in a large terminal than in a small one, which is accounted for from the fact that the cost of service is higher and the value of service to the shipper is greater in a large than in a small terminal, where the cost of service is very low and the value of service is comparatively slight.

In blanketing a terminal for the purpose of fixing switching charges it should be spread over a sufficiently large area to embrace all of the general switching movements. In a terminal the size of Denver, and taking into consideration conditions of a purely local nature, it would seem equitable to permit the carriers to exact a somewhat higher charge for switching service to extreme outer points than is charged to points within the general switching zone.

The Commission, from a thorough consideration of the record, and from comparisons made which are a part of the record, is forced to the conclusion that the switching charges, both industrial and reciprocal, as charged, demanded and collected by the several defendants herein for service performed in the City of Denver are unreasonable, unfair and excessive in and of themselves, and also insofar as they exceed the charges assessed and collected for similar service at other terminals of equal size and importance. The several defendants herein will be ordered to cease and desist from charging, demanding or collecting charges for switching service in excess of the charges set forth in the order of the Commission in this cause, which charges are found by the Commission to be reasonable, fair and just charges for switching service performed within the prescribed switching limits of the City of Denver.

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The fact that the Colorado & Southern Railway Company's terminal tracks extend entirely through the Denver District in a northerly and southerly direction makes necessary a special consideration of this road's switching charges with specific reference to Local Industrial Switching. The Commission believes that the additional service incurred in the handling of cars between the two extremities of this carrier's terminals in the Denver District justifies a charge somewhat greater than that for transportation between two points which does not require a trans-urban movement over the rails of the same carrier. An exception will therefore be made to the Local Industrial Switching charge providing for a higher amount when such additional service is involved.

O R D E R.

This case being at issue upon complaint from the several complainants and intervenors named herein, and a full and complete consideration of the matters and things involved having been had,- the evidence and testimony of each defendant having been considered separately and apart from the evidence and testimony of each other defendant, except where the evidence and testimony of any defendant, or defendants, applied to any other defendant or defendants.

IT IS ORDERED, That the carriers defendants herein be, and they are hereby, notified and required to cease and desist, on or before February 1, 1917, and thereafter to abstain, from applying, charging, demanding or collecting their present charges for switching service in the City of Denver.

IT IS FURTHER ORDERED, That the said defendants be, and they are hereby, notified and required to establish, on or before February 1, 1917, upon notice to the Public Utilities Commission of the State of Colorado and to the general public by not less than five days' filing and posting in the manner

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prescribed in the Public Utilities Act, and thereafter to maintain, the basis of switching charges in the City of Denver as hereinafter set forth; and for the purpose of applying the charges herein shown shall establish a territory known as the Denver District, which shall be divided into two zones, known as the Inner Zone and the Outer Zone.

DEFINITION OF DENVER DISTRICT.

Beginning at a point on the City Limits at the intersection of South Pecos Street and Yale Avenue; thence eastward along Yale Avenue to Franklin Street; thence north to Florida Avenue; thence east to Colorado Boulevard; thence north to 54th Avenue; thence west along City Limits to Washington Street; thence north to 55th Avenue; thence west to Federal Boulevard; thence south to 52nd Avenue; thence west and south along the City Limits to the point of beginning.

INNER ZONE.

Beginning at a point on the City Limits at the intersection of Zuni Street and Dakota Avenue; thence east along Dakota Avenue to Josephine Street; thence north to 48th Avenue; thence west to Race Street; thence north to 50th Avenue; thence west to Franklin Street; thence north to 52nd Avenue; thence west to Washington Street; thence north to 55th Avenue; thence west to Federal Boulevard; thence south to 52nd Avenue; thence west and south along City Limits to the point of beginning.

OUTER ZONE.

The outer zone is the territory outside of the inner zone, and within the Denver District.

The switching charges named will cover the handling of cars loaded one way and empty the other way, between the points provided for. If the cars are loaded in both directions, charges

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will apply for each loaded movement.

INDUSTRIAL SWITCHING.

By industrial switching is meant the movement of a loaded car from an industry, private siding or team track to another industry, private siding or team track, either or both of which may be located on the tracks of the same carrier or two different carriers, within the terminal defined as the Denver District. Industrial switching involving a movement over the tracks of one carrier only will be known as Local Industrial Switching, and that involving a movement over the tracks of two or more carriers will be known as Joint Industrial Switching.

LOCAL INDUSTRIAL SWITCHING.

From an industry, private siding or team track to another industry, private siding or team track located on the tracks of the same carrier within the Denver District, the charge shall not exceed 20 cents per ton of 2,000 pounds, minimum charge \$4 per car, except that if a car originates north of 43rd Avenue on the Colorado & Southern Railway and is destined to a point on the tracks of the same carrier south of Dakota Avenue, or vice versa, the charge shall not exceed 25 cents per ton of 2,000 pounds, minimum charge \$5 per car.

JOINT INDUSTRIAL SWITCHING.

When a loaded car is moved from an industry, private siding or team track located on the tracks of a carrier within the Denver District to an industry, private siding or team track located on the tracks of another carrier within the Denver District and which involves a movement over the rails of two or more carriers, the charge shall not exceed 20 cents per ton of 2,000 pounds for each carrier involved in the haul, subject to a minimum charge of \$4 per car for each carrier.

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RECIPROCAL SWITCHING

By reciprocal switching is meant the movement of a loaded car from the interchange tracks of a carrier to an industry, private siding or team track located within the Denver District, or from an industry, private siding or team track within the Denver District to the interchange tracks, when the car is received from, or destined to, a point on a connecting line outside of the Denver District.

The charge of a carrier for the service performed by it in handling a car for a connecting carrier, either from an industry to the interchange track of the other carrier; from the interchange tracks to an industry on its line, or from its interchange tracks with one carrier to its interchange tracks with still another carrier shall not exceed:

(a) When the movement is from an industry in the Inner Zone to the carrier's interchange tracks of a connecting line, or from its interchange tracks with a connecting line to an industry in the Inner Zone, or from its interchange tracks with one connecting line to its interchange tracks of a second connecting line, 15 cents per ton of 2,000 pounds, minimum charge \$3 per car.

(b) When the movement is from a carrier's interchange tracks with a connecting line to an industry in the Outer Zone, or from an industry in the Outer Zone to a carrier's interchange tracks with a connecting line, 20 cents per ton of 2,000 pounds, minimum charge \$4 per car.

IT IS FURTHER ORDERED, That the opinion and order in this cause shall apply only to freight traffic moving entirely within the State of Colorado.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

(S E A L)

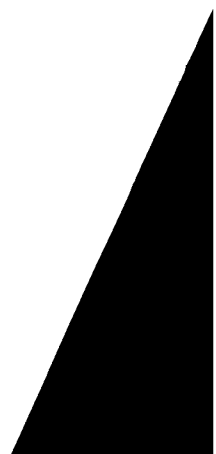
S. S. Kendall
Geo. T. Bradley
M. H. Aylesworth
Commissioners.

Dated at Denver, Colorado,
this 18th day of December, 1916.

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of Minturn, Colorado; 4.19 miles from an agency station known as Avon, and 11.82 miles from an agency station known as Wolcott;

That three families, aggregating approximately twelve (12) persons, reside within a radius of one thousand (1000) feet from the Edwards switch, and that the balance of the petitioners whose names appear on the petition reside from one-half of one mile to five miles from said switch;

That the revenue received from freight and passenger business done at said Edwards during the years 1911, 1912, 1913, 1914 and 1915, on inbound and outbound passenger and freight business originating at said point, over all lines from point of origin to destination, was the sum of \$21,219.01, or an average of \$353.65 per month, and

That, in view of the proximity of other agency stations to the Edwards switch, and the small amount of business transacted at this point, the defendant would not be justified in erecting a station at said switch.

On the 3rd day of August, 1916, the Commission received a written report from its inspector, Mr. E. S. Johnson, relative to his visit to Edwards on the 27th day of July, 1916, for the purpose of investigating conditions at that place relative to Informal Complaint No. 265, requesting depot facilities. The report stated in part:

"Edwards is situated in Eagle County, Colorado, on the 2nd Division and 2nd District Branch of The Denver & Rio Grande Railroad, about ten (10) miles west of Minturn, and between three (3) and four (4) miles from Avon, the nearest railroad station.

"A general merchandise store is located here (average gross receipts, March to July, 1916, \$1672.14) and some six or seven residence buildings in the immediate neighborhood; a schoolhouse, with an average yearly attendance of thirty-two (32) children. Tributary to Edwards is a farming community of some sixty (60) families; five (5) small mining companies, employing about fifteen (15) men, who receive their shipments through Edwards.

"There are no station facilities of any kind at Edwards. A spur extends from the main line to accommodate shippers. Edwards is a flag-stop for passenger trains Nos. 15 and 16, and for daily freight trains between Minturn and Glenwood Springs.

"A financial statement submitted by the accounting department of The Denver & Rio Grande Railroad Company, showing business transacted at Edwards for the years 1914 and 1915, shows the earnings to be small and, in my opinion, would not warrant the expenditure necessary for the erection of a station building, nearest station being only three (3) or four (4) miles distant. However, considering that the railroad company stops some of its passenger trains here, I believe that a building or shelter should be erected, as no protection is afforded to passengers, or to express and merchandise unloaded at this point."

This report was read into the record at the hearing of the above entitled cause held in the Commission's rooms, Capitol Building, Denver, December 8, 1916.

It developed from the testimony submitted at this hearing that within a distance of approximately seventeen (17) miles, including the territory at Edwards, there are three (3) agency stations and two (2) non-agency stations. The record also shows that fruit, vegetables, and other perishable freight is unloaded frequently, and this largely for people living some distance north and south of the railroad, in what is known as the Lake Creek and Squaw Creek districts; that almost daily passengers arrive or depart, and that when trains are late outgoing patrons of the road are compelled to wait in storms and cold without shelter.

Produce in the vicinity, such as hay, oats, barley and potatoes, is shipped from this switch.

O R D E R.

IT IS THEREFORE ORDERED, That the defendant, The Denver & Rio Grande Railroad Company, shall, within thirty (30) days, install at the spur on its main line of track known as Edwards a suitable shelter of sufficient size to accommodate the business at this point. Same to be painted,

and provided with seats and a stove.

Plans for same to be submitted to this Commission for its approval within ten (10) days from the date of this order.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. J. Kendall

Geo. T. Bradley

M. H. Hunt
Commissioners.

Dated at Denver, Colorado,
this 20th day of December, 1916.

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

IN RE RULES REGULATING GAS, ELEC-)
TRIC AND WATER SERVICE OF ALL)
PRIVATELY OWNED AND MUNICIPAL-)
LY OWNED GAS, ELECTRIC AND WA-)
TER PUBLIC UTILITIES OPERATING)
WITHIN THE STATE OF COLORADO.)

December 26, 1916

Case No. 84.

WHEREAS, on the 5th day of October, 1916, the Commission ordered all gas, electric and water utilities operating in the State of Colorado, including municipally owned and operated utilities, to comply with the code of rules regulating gas, electric and water service, said code of rules being fully set forth in the order of the Commission to become effective on the first day of January, 1917, and

WHEREAS, a copy of the Commission's code of rules regulating gas, electric and water service was duly served upon all gas, electric and water utilities operating within the State of Colorado, including municipally owned and operated public utilities, and

WHEREAS, on the 22nd day of December, 1916, the City of Colorado Springs, an owner and operator of a water public utility in the State of Colorado, filed a petition with the Commission on its own behalf and on the behalf of other water public utilities within the State, whether privately or municipally owned, praying for a re-hearing as to the reasonableness of Rule 14 entitled Meters and Service Connections, which rule is a part of the Commission's code pertaining to the service of gas, electric and water utilities, and

WHEREAS, the Commission is fully advised in the premises,

IT IS THEREFORE ORDERED, That the effective date of Rule 14, applying to all gas, electric and water utilities, including municipally owned and operated public utilities located within the State of Colorado, regulating gas, electric and water service, be, and hereby is, suspended for a period of ninety (90) days from and after January 1st, 1917.

IT IS FURTHER ORDERED, that a re-hearing be granted to all gas, electric and water public utilities operating within the State of Colorado, on the reasonableness of Rule 14 of the Commission's rules regulating gas, electric and water service.

IT IS FURTHER ORDERED, that the Commission shall fix a date for the re-hearing as to the reasonableness of this rule and that not less than ten days' notice of the time and place of the hearing shall be given by the Secretary of the Commission to all gas, electric and water public utilities, both privately owned and municipally owned and operated, within the State of Colorado.

IT IS FURTHER ORDERED, That all rules of The Public Utilities Commission of the State of Colorado regulating the service of gas, electric and water utilities, shall be effective on the first day of January, 1917, with the exception of Rule 14.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO,

S. S. Kendall

Geo. I. Bradley

M. H. Lewis
Commissioners.

Dated at Denver, Colorado,
this 26th day of December, 1916.

ORIGINAL

MAKE NO COPY

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

CITIZENS OF EDWARDS, COLORADO,
Complainants,
v.
THE DENVER AND RIO GRANDE RAIL-
ROAD COMPANY,
Defendant.

CASE NO. 104.

Submitted December 8, 1916.

Decided December 20, 1916.

A P P E A R A N C E S:

E. N. Clark, Esq., For Defendant,
The Denver & Rio Grande
Railroad Company,

W. H. Wellington, Esq., For Petitioners,
Citizens of Edwards, Colo.

STATEMENT.

On the 9th day of October, 1916, the Commission received a written petition signed by some thirty-eight (38) citizens of Colorado residing in and about the trade-center of Edwards, Colorado, requesting the construction of a clean, sanitary and suitable depot by The Denver & Rio Grande Railroad Company at that place.

On the 19th day of October, 1916, the defendant corporation filed with the Commission its answer to the petition, stating that Edwards is a side track situated 10.17 miles west

ORIGINAL

MAKE NO COPY

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

THE HUERFANO COAL COMPANY, THE OAK-
DALE COAL COMPANY, THE UNION COAL AND
COKE COMPANY, THE C. K. AND N. COAL COM-
PANY, and THE RUGBY FUEL COMPANY,

Complainants,

-vs-

THE CRIPPLE CREEK & COLORADO SPRINGS
RAILROAD COMPANY AND LEASED LINES, THE
COLORADO & SOUTHERN RAILWAY COMPANY, and
THE DENVER & RIO GRANDE RAILROAD COMPANY,

Defendants.

THE PIKE'S PEAK FUEL COMPANY,

Intervenor.

Case No. 86

Submitted October 23, 1916.

Decided December 30, 1916.

A P P E A R A N C E S:

George Manley, Esq., for all Complainants.

Clarence Hamlin, Esq. and J. H. Rothrock, Esq.,
for The Cripple Creek & Colorado Springs
Railroad Company and Leased Lines.

E. N. Clark, Esq. and Mr. Fred Wild, Jr. for
The Denver & Rio Grande Railroad Company.

E. E. Whitted, Esq., A. S. Brooks, Esq. and
Mr. George Williams, for The Colorado &
Southern Railway Company.

Tyson Dines, Jr., Esq., for the Intervenor.

S T A T E M E N T

On July 8, 1916, the petitioners herein filed
with the Commission a complaint attacking the reasonableness
of the rates on coal as charged by the several defendants
herein from the Walsenburg and Trinidad Districts to the
Cripple Creek District; and alleged that the rates on
various classes of coal between the aforementioned points

are approximately 50 cents per ton higher than apply from the Canon City Group to the Cripple Creek District, which coal from said District is handled by the same carriers as are complained against in this proceeding, and hauled approximately the same distance and under similar conditions; that the character of the coal is approximately the same, and prayed for an order of the Commission to reduce the rates from the Walsenburg District to the Cripple Creek District to the same basis applying from the Canon City Group to the Cripple Creek District, with the usual arbitrary rate of 25 cents per ton higher from Trinidad points.

To this petition the several defendants herein filed separate answers, the substance of each being a general denial of the allegations as set forth in the petition, except the admission that the rates charged as shown by the petition were correct.

On September 19, 1916, The Pike's Peak Fuel Company, a corporation created and existing under the laws of Colorado, whose principal business is the mining of lignite coal near Pike View, El Paso County, Colorado, and who alleged that its principal market for its product is the Cripple Creek District, filed a petition of intervention and was permitted to become a party to the cause, as provided by law in such cases.

The issues thus made up, and after due notice to all parties of interest, the cause came on for regular hearing before the Commission at the hearing room, Capitol Building, Denver, Colorado, on October 23, 1916. At the

opening of the case, the attorneys for The Cripple Creek & Colorado Springs Railroad Company and Leased Lines filed a motion that the case be continued, and that all producers of coal, who market or who are endeavoring to market any portion of their products in said District, be notified to appear before the Commission and present their reasons for or against the granting of the application herein to the end that a general investigation and hearing be had into the reasonableness of all rates to the Cripple Creek District from all coal mining districts in the State of Colorado. This motion was overruled by the Commission and testimony was taken.

The record discloses the fact that the Cripple Creek District receives its coal supply from four coal-producing districts, designated as Southern, Canon City, Colorado Springs and Western Slope Groups. During the year 1915, the Southern Group furnished approximately $13\frac{2}{3}$ per cent, Canon City Group 23 per cent, Colorado Springs Group $33\frac{1}{3}$ per cent and the Western Slope Group 30 per cent of the total. The coal from all of the above named Groups is of a bituminous nature, except that produced in the Colorado Springs District, which is a light lignite, much inferior in quality and much cheaper in price than that produced at the other Groups. The average distance from the three Groups, which are affected in this case, to the Cripple Creek District, is as follows: Colorado Springs Group to

Cripple Creek District, 56 miles; Canon City Group to Cripple Creek District, 136 miles, and Walsenburg Group to Cripple Creek District, 163 miles.

The present rates applying between these Groups and the Cripple Creek District are as follows:

Walsenburg Group to Cripple Creek District,			
Lump, egg and mine run.....	\$3.00	per	ton
Nut	2.90	"	"
Slack	2.65	"	"

Canon City Group to Cripple Creek District,			
Lump, egg and mine run	\$2.50	per	ton
Nut	2.40	"	"
Slack	2.15	"	"

Colorado Springs Group to Cripple Creek District,			
Lump, egg and mine run	\$1.75	per	ton
Nut	1.65	"	"
Slack	1.40	"	"

It thus will be seen that the rates on the various classes of coal are 50 cents per ton lower from the Canon City Group than those in effect from the Walsenburg Group, and the rates from the Colorado Springs Group are \$1.25 per ton lower than the rates from the Walsenburg Group of mines.

It might be noted here that on April 22, 1916, the Commission, in I. & S. Docket No. 4 permanently suspended certain tariffs of the carriers, which tariffs contemplated an increase of 50 cents per ton on all classes of coal from the Canon City Group to the Cripple Creek District. The Commission found in that case that the carriers had failed to sustain the burden of proof in justification of the proposed increased rates. The evidence in the case now before the Commission indicates that practically all of the coal shipped from the Canon City Group to the Cripple Creek District is used for domestic purposes, while most of the coal shipped from the Walsenburg District and practically all of the coal from the Colorado Springs District is used for steam purposes.

It appears that, owing to the low quality of the coal produced at the mines in the Colorado Springs District, the Cripple Creek District is the only outside market available to the shippers at that point. The intervenor in this case strongly urged the necessity of a substantial differential in the rates over its chief competitors, the operators in the Walsenburg District, and to substantiate this position cited the fact that its product from the Colorado Springs District not only is an inferior grade of coal and commands a much less price, but that the mine run coal of this District comes into direct competition in the Cripple Creek District with slack from the Walsenburg District.

The value of a commodity is always an element to be considered in fixing rates, and was one of the elements in the mind of the Commission when it used the following language in Case No. 10, In re Eastern Colorado Coal Rates, reported in 1 Colo. P. U. C. at page 48:

"That wherever possible the coal mining districts of this State should be placed on an equality and given the fullest opportunity to compete with each other."

The Commission feels that this fact should receive careful and serious consideration. It is apparent that if the rates from Canon City and Walsenburg to the Cripple Creek District are placed on an exact equality, it will result either in raising the rates from Canon City and placing an undue burden on shippers at that point, or in driving the Colorado Springs operators out of the Cripple Creek market. This conclusion is reached from the record in this case, which contains much information not heretofore before the Commission. Consideration also will be given the fact that the distance from the Walsenburg Group to the Cripple Creek

District is approximately 27 miles farther than from the Canon City Group.

Having in mind the various factors entering into this case and the service performed by the carriers, the Commission is of the opinion, and so finds, that rates of \$2.75 per ton on lump coal, \$2.65 per ton on nut coal, and \$2.50 per ton on slack coal, carloads, from points in the Walsenburg District to Cripple Creek District points, are fair, just, reasonable and compensatory, and an order therefore will be entered in accordance with this opinion. The Commission is of the further opinion that the same differential should apply between the Walsenburg and Trinidad Districts as at present obtains.

O R D E R

IT IS THEREFORE ORDERED, That the defendants be, and they are hereby, required to cease and desist, on or before January 20, 1917, from charging, demanding, collecting or receiving their present rates for the transportation of coal, in carloads, from points in the Walsenburg and Trinidad Districts to Cripple Creek District points.

IT IS FURTHER ORDERED, That the defendants be, and they are hereby, notified and required to establish and put in force, on or before January 20, 1917, rates of \$2.75 per ton on lump coal, \$2.65 per ton on nut coal, and \$2.50 per ton on slack coal, from points in the Walsenburg District to Cripple Creek District points.

IT IS FURTHER ORDERED, That the defendants be,
and they are hereby, notified and required to maintain
rates on coal from Trinidad District points to Cripple
Creek District points which shall be 25 cents per ton
higher than the rates from the Walsenburg District points.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

A. A. Kendall
Geo T. Bradley
M. H. Hunt
Commissioners.

Dated at Denver, Colorado, this
30th day of December, A. D. 1916.